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NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

RIN 3150-AH95

Criticality Control of Fuel Within Dry Storage Casks or Transportation Packages in a Spent Fuel Pool; Confirmation of Effective Date

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule: Confirmation of effective date.

SUMMARY: The Nuclear Regulatory Commission (NRC) is confirming the effective date of January 30, 2007, for the direct final rule that was published in the *Federal Register* on November 16, 2006 (71 FR 66648). This direct final rule amended the NRC's regulations that govern domestic licensing of production and utilization facilities so that the requirements governing criticality control for spent fuel pool storage racks do not apply to the fuel within a spent fuel transportation package or storage cask when a package or cask is in a spent fuel pool. These packages and casks are subject to separate criticality control requirements. This action is necessary to avoid applying two different sets of criticality control requirements to fuel within a package or cask in a spent fuel pool.

DATES: *Effective Date:* The effective date of January 30, 2007, is confirmed for this direct final rule.

ADDRESSES: Documents related to this rulemaking, including comments received, may be examined at the NRC Public Document Room, located at One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. These same documents may also be viewed and downloaded electronically via the rulemaking Web site (<http://ruleforum.llnl.gov>). For information about the interactive rulemaking Web

site, contact Ms. Carol Gallagher (301 415-5905; e-mail CAG@nrc.gov).

FOR FURTHER INFORMATION CONTACT: George M. Tartal, Project Manager, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415-0016, e-mail gmt1@nrc.gov.

SUPPLEMENTARY INFORMATION: On November 16, 2006 (71 FR 66648), the NRC published a direct final rule amending its regulations in 10 CFR Part 50 so that the requirements governing criticality control for spent fuel pool storage racks do not apply to the fuel within a spent fuel transportation package or storage cask when a package or cask is in a spent fuel pool. In the direct final rule, NRC stated that if no significant adverse comments were received, the direct final rule would become effective on January 30, 2007. The NRC did not receive any significant adverse comments on the direct final rule, as described below. Therefore, this rule will become effective as scheduled.

The NRC received two comments during the public comment period. The first comment, submitted by the Nuclear Energy Institute on December 15, 2006, endorsed this rule change to 10 CFR 50.68 without further comment. Since the comment does not oppose the rule, this comment is not considered a significant adverse comment.

The second comment, submitted by Carolina Power & Light Company, a.k.a. Progress Energy Carolinas Inc. (PEC), on December 18, 2006, supported the rule language, commenting that "the rule wording is acceptable and technically justified, and that the Direct Final Rule should be made effective on January 30, 2007, assuming no significant adverse comments are received." However, an additional PEC comment suggested revision or clarification to the rulemaking technical basis, presented in Appendix A to the direct final rule. More specifically, the commenter questioned the NRC staff's interpretation of 10 CFR 72.124(c), which states in part, "Underwater monitoring is not required when special nuclear material is handled or stored beneath water shielding." The commenter also questioned the use of area radiation monitors (ARMs) as a means of complying with this regulation.

The thrust of the PEC comment is on implementation issues with the

criticality safety requirements of 10 CFR 72.124(c). These requirements are used as part of the technical justification for providing adequate criticality safety under 10 CFR Part 72. The commenter discusses technical issues with the use of ARMs as a means of complying with the regulations set forth in 10 CFR 72.124(c). The NRC staff's position regarding compliance with 10 CFR 72.124(c) continues to be that ARMs may be used as the criticality monitors required by 10 CFR 72.124(c) if it can be demonstrated that the radiation monitoring system is capable of detecting any possible criticality events due to spent fuel movement to or from a dry storage cask or transportation container. The PEC comment deals with implementation of 10 CFR 72.124(c). These requirements, although used in the technical basis in this direct final rule, do not change as a result of this direct final rule.

The NRC staff reviewed the comment to determine whether it should be considered a significant adverse comment. First, the commenter specifically endorses the rule language, as presented in the direct final rule, without further comment. Second, the commenter states that the rule is adequately supported by the technical basis presented as Appendix A in the direct final rule. The comments provided do not specifically oppose the rule as written, but rather request that the NRC provide clarification on implementation considerations with the requirements of 10 CFR 72.124(c). The commenter questioned the use of ARMs to comply with this regulation. The rulemaking did not require, state, or imply that licensees must or should use ARMs as criticality monitors. The direct final rule does reference the 10 CFR 72.124(c) requirement for criticality monitoring and how criticality monitors support the technical basis for the rulemaking. However, neither the direct final rule, nor the technical basis, nor other portions of the statements of consideration rely on a specific method for how a licensee may choose to meet the requirement for criticality monitoring. Further, as stated in the paragraph above, it is the licensee's responsibility to ensure, if ARMs are used to comply with 10 CFR 72.124(c), that the ARMs are capable of performing the intended function. On this basis, the NRC staff concluded that this comment

was outside the scope of the rulemaking change to 10 CFR 50.68. In addition, as a result of this comment, the NRC staff was not required to revise the rule language, technical basis, or statements of consideration for the rulemaking nor does it cause the staff to revise its regulatory position on compliance with 10 CFR 72.124(c). Therefore, the comment is not considered a significant adverse comment.

The NRC staff's responses to the public comments received provide the clarification the commenter requested. This action completes the record for this rulemaking.

Dated at Rockville, Maryland, this 22nd day of January, 2007.

For the Nuclear Regulatory Commission.
Michael T. Lesar,
Chief, Rulemaking, Directives, and Editing Branch, Division of Administrative Services, Office of Administration.
 [FR Doc. E7-1260 Filed 1-25-07; 8:45 am]
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FEDERAL RESERVE SYSTEM

12 CFR Part 229

Availability of Funds and Collection of Checks

CFR Correction

In Title 12 of the Code of Federal Regulations, Parts 220 to 299, revised as of January 1, 2006, on page 576, in Appendix A to Part 229, under the Ninth Federal Reserve District, Helena Branch, the first entry in the second column, "2020", is corrected to read "2920".

[FR Doc. 07-55500 Filed 1-25-07; 8:45 am]
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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2006-26091; Directorate Identifier 2006-NE-28-AD; Amendment 39-14904; AD 2007-02-17]

RIN 2120-AA64

Airworthiness Directives; Turbomeca Arriel 1 Series Turbohaft Engines

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for the

products listed above. This AD results from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

In operation, fuel leaks at the level of start electro valve fuel coupling were observed. A lack of power or an uncommanded in-flight shutdown may result from these fuel leaks.

The condition described in the MCAI may result in a forced autorotation landing, the inability to continue safe flight, or a fire. We are issuing this AD to require actions to correct the unsafe condition on these products.

DATES: This AD becomes effective March 2, 2007. The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of March 2, 2007.

ADDRESSES: You may examine the AD docket on the Internet at <http://dms.dot.gov> or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Christopher Spinney, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; telephone (781) 238-7175, fax (781) 238-7199; e-mail: christopher.spinney@faa.gov.

SUPPLEMENTARY INFORMATION:

Streamlined Issuance of AD

The FAA is implementing a new process for streamlining the issuance of ADs related to MCAI. This streamlined process will allow us to adopt MCAI safety requirements in a more efficient manner and will reduce safety risks to the public. This process continues to follow all FAA AD issuance processes to meet legal, economic, Administrative Procedure Act, and **Federal Register** requirements. We also continue to meet our technical decision-making responsibilities to identify and correct unsafe conditions on U.S.-certificated products.

This AD references the MCAI and related service information that we considered in forming the engineering basis to correct the unsafe condition. The AD contains text copied from the MCAI and for this reason might not follow our plain language principles.

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR

part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on November 29, 2006 (71 FR 69083). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states that:

In operation, fuel leaks at the level of start electro valve fuel coupling were observed. A lack of power or an uncommanded in-flight shutdown may result from these fuel leaks.

The condition described in the MCAI may result in a forced autorotation landing, the inability to continue safe flight or a fire.

Comments

We gave the public the opportunity to participate in developing this AD. We considered the comments received.

Claim That AD Is Unnecessary

One commenter, NorthStar Trekking, LLC, claims that the AD is unnecessary because the five-year-old service bulletin has been incorporated into the maintenance manual. We do not agree. The inspection is a one-time inspection to address an unsafe condition that was not previously covered in the maintenance manual. The fact that the service bulletin is five years old, or the fact that the inspections have been incorporated into the manual, have no bearing on the unsafe condition. However, if the inspection was done any time in the last five years per the service bulletin, then the AD is complied with, requiring no further action by the operator.

Claim That Costs for Inflation Not Included

The same commenter states that costs for inflation were not included in the costs of compliance in the proposed AD. We do not agree. The cost analysis in the proposed AD is a conservative assessment. It assumes that all ignition solenoid/start drain valves will have to be replaced. We do not know what percentage of parts will require replacement, but we anticipate that only a small percentage of these parts will actually require replacement.

Conclusion

We reviewed the available data, including the comments received, and determined that air safety and the public interest require adopting the AD as proposed.

Differences Between This AD and the MCAI or Service Information

We have reviewed the MCAI and related service information and, in general, agree with their substance. But we might have found it necessary to use