Proposed Rules

Federal Register
Vol. 60, No. 181
Tuesday, September 19, 1995

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

RIN 3150–AD10

Acceptance of Products Purchased for Use in Nuclear Power Plant Structures, Systems, and Components; Withdrawal

AGENCY: Nuclear Regulatory Commission.

ACTION: Advance notice of proposed rulemaking: Withdrawal.

SUMMARY: The Nuclear Regulatory Commission is withdrawing an advance notice of proposed rulemaking (ANPR) concerning the procurement and dedication of commercial grade items. The ANPR sought comment on the need for additional regulatory requirements and for obtaining an improved understanding of alternatives to regulatory requirements. On the basis of its findings, the NRC staff recommended to the Commission that this ANPR be withdrawn. The Commission has approved the withdrawal of this rulemaking.

FOR FURTHER INFORMATION CONTACT: Gregory Cwalina, Office of Nuclear Reactor Regulation, Division of Technical Support, Special Inspection Branch, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–2983.

SUPPLEMENTARY INFORMATION: On March 6, 1989 (54 FR 9229), the NRC staff published in the Federal Register an ANPR, on the need for regulatory actions to effect improvements for procurement, receipt inspection and testing, and dedication programs, in response to the findings of 13 inspections performed on licensees from 1986 through 1989. In the ANPR, the NRC staff explained that the NRC was considering the need for additional regulatory requirements and needed to obtain an improved understanding of alternatives to regulatory requirements.

The inspections on commercial grade dedication programs identified major programmatic deficiencies. On February 21, 1990, the NRC staff submitted to the Commission SECY–90–057, ''Acceptance of Products Purchased for Use in Nuclear Power Plant Structures, Systems, and Components,'' to summarize the NRC's analysis of the public comments on the ANPR and its actions regarding the proposed rulemaking. The NRC staff concluded that (1) More regulatory guidance and direction may be necessary to ensure that the basic requirements for procurement and dedication are clearly stated and understood, (2) the NRC may not need to perform the rulemaking if the industry properly implemented the initiatives it had begun, and (3) the NRC staff would monitor the industry's efforts to determine if the progress made warranted deferring the rulemaking.

On March 7, 1990, the NRC staff forwarded to the Commission SECY–90–076, ''Inspection and Enforcement Initiatives for Commercial-Grade Procurement and Dedication Programs,'' in which the NRC staff described its actions to defer programmatic inspections of licensees' procurement and dedication programs for about 1 year while monitoring the industry's developments, improvements, and initiatives in this area.

On August 24, 1990, the NRC staff forwarded to the Commission SECY–90–304, ''Nuclear Management and Resources Council (NUMARC) Initiatives on Procurement,'' in which the NRC staff reported the status of NUMARC's initiatives on general procurement practices. The NRC staff stated it would conduct assessments at selected sites to review the licensees' implementation of improved procurement and commercial grade dedication programs and to assess improvements made in the areas covered by the NUMARC initiatives. The NRC staff began the first of eight planned assessments on February 4, 1991.

On April 9, 1991, the NRC staff issued Generic Letter 91–05, ''Licensee Commercial-Grade Procurement and Dedication Programs,'' in which the NRC staff expressed NRC positions regarding certain aspects of licensee procurement and dedication programs and discussed a number of deficiencies in licensees' commercial grade dedication programs noted during previous team inspections.

On September 16, 1991, the NRC staff forwarded to the Commission SECY–91–291, ''Status of NRC's Procurement Assessments and Resumption of Programmatic Inspection Activity,'' in which the NRC staff reported on the findings of its assessments from February 1991 through July 1991. The NRC staff concluded that although improvements had been made in licensees' procurement and dedication programs, weaknesses in implementation still existed. The NRC staff began developing an inspection procedure (IP) and conducted five pilot inspections between December 1991 and June 1992. The NRC staff continued to identify weaknesses in the implementation of licensees' dedication programs. Because of the findings of these inspections, the NRC staff held numerous meetings with NUMARC, industry, and licensees from November 1992 to March 1993. After the pilot inspections were completed, the IP was revised and in March 1993, the NRC staff submitted the draft IP for public comment.

Weaknesses identified during the procurement assessments and pilot inspections were related to implementation of the programs (i.e., dedication of specific items), and not to the programs themselves. Adoption of the industry guidance has, for the most part, resulted in licensees having acceptable programs for the dedication of commercial grade items. These programs also adequately assure that counterfeit, substandard or fraudulently marketed materials will not be accepted for use. The NRC staff's assessment and inspection activities did not identify any instances of counterfeit or fraudulent material being accepted for use by any of the plants examined.

In April 1993, the NRC staff held a public workshop, at which the draft IP and various dedication issues were discussed. The public comment period closed in May 1993. The comment analysis and the revisions to the IP and dedication guidance were finished in June 1993. On November 8, 1993, the NRC staff issued the IP. Recent experience with the new IP demonstrated that the current inspection approach provides an effective means for assuring that licensee procurement and dedication

activities will prevent the acceptance of counterfeit and fraudulent materials.

Based on the findings of the original inspections, assessments, and pilot inspections, the NRC staff believes that problems identified with respect to the quality of items dedicated for use in safety-related applications are adequately addressed by the requirements of Appendix B of Part 50 and are problems of compliance, rather than of inadequate rules. The NRC staff and industry worked closely together to improve industry efforts in procurement and commercial grade dedication. Therefore, there appears to be no need for new regulations addressed to the quality of items dedicated for use in safety-related applications.

Part of the NRC staff's reason for originally proposing rulemaking was to reduce the likelihood of counterfeit or fraudulently marketed products from being accepted for use. The NRC staff has issued numerous information notices regarding specific cases of fraudulent parts being found in nuclear facilities and guidance on how to detect them. The NRC staff has also issued two generic letters presenting information regarding procurement program improvements to help prevent the acceptance and use of counterfeit or fraudulently marketed products. This issue is also addressed as part of the NUMARC Comprehensive Procurement Initiative.

Finally, the Commission issued a rule change to 10 CFR Part 50 (§ 50.5, Deliberate misconduct) that gives the NRC staff an additional regulatory tool to pursue cases in which a licensee contractor or subcontractor has deliberately provided material, goods, or services that causes or may cause the licensee to be in violation of a rule. A supplier providing counterfeit and/or substandard materials to be used in safety-related applications is subject to that rule. Therefore, additional rulemaking to specifically address fraudulent parts appears unnecessary.

For these reasons, the Commission has concluded that the nuclear industry has made significant progress toward improving its procurement and commercial grade dedication programs and believes that problems identified with respect to the quality of items dedicated for use in safety-related applications are adequately addressed by the requirements of 10 CFR Part 50, Appendix B. Therefore, there appears to be no need for new regulations addressed to the quality of items dedicated for use in safety-related applications. Accordingly, the Commission is withdrawing the ANPR.

Dated at Rockville, Maryland, this 8th day of September, 1995.

For the Nuclear Regulatory Commission.

James M. Taylor,

Executive Director for Operations.

[FR Doc. 95–23178 Filed 9–18–95; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–SW–19–AD]

Airworthiness Directives; Flight Trails Helicopters, Inc., Hardpoint Assemblies Installed on McDonnell Douglas Helicopter Systems Model 369D, 369E, 369F, 369FF, and 500N Helicopters

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 Flight Trails Helicopters, Inc. hardpoint assemblies, installed in accordance with Supplemental Type Certificate (STC) No. SH6080NM, or in accordance with Federal Aviation Administration (FAA) Form 337, ''Major Repair and Alteration,'' approved on McDonnell Douglas Helicopter Systems (MDHS) Model 369D, 369E, 369F, 369FF, and 500N helicopters. This proposal would require removing any Flight Trails Helicopters, Inc. hardpoint assembly not identified by part number (P/N) and serial number (S/N). This proposal is prompted by two incidents in which the hardpoint assembly used to support a search light or night vision system reportedly failed. The actions specified by the proposed AD are intended to prevent failure of the hardpoint assembly, separation of the hardpoint assembly from the helicopter, and subsequent contact between the hardpoint assembly and the fuselage or rotor system of the helicopter.

DATES: Comments must be received by November 20, 1995.

ADDRESSES: Submit comments in triplicate to the FAA, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–SW–19–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. James Wang, Aerospace Engineer, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Blvd., Lakewood, California 90712, telephone (310) 627–5232, fax (310) 627–5210.

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 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 No. 95–SW–19–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, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–SW–19–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Discussion

This document proposes the adoption of a new AD that is applicable to Flight Trails Helicopters, Inc. hardpoint assemblies installed in accordance with STC No. SH6080NM, or in accordance with FAA Form 337, ''Major Repair and Alteration,'' approved on MDHS Model 369D, 369E, 369F, 369FF, and 500N helicopters. Two incidents have occurred in which the hardpoint assembly reportedly failed at its installation weld. The hardpoint assembly is used to attach equipment such as a search light or night vision