

Proposed Rules

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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 37

[NRC-2008-0120]

RIN 3150-A112

Physical Protection of Byproduct Material

AGENCY: Nuclear Regulatory Commission.

ACTION: Availability of preliminary draft rule language.

SUMMARY: The Nuclear Regulatory Commission (NRC) is making available preliminary draft proposed rule language to amend its regulations to add a new part 37 to Title 10 of the Code of Federal Regulations. This new part 37 will contain the security (physical protection) requirements that are designed to provide reasonable assurance of preventing the theft or diversion of category 1 and category 2 quantities of radioactive material as designated by the International Atomic Energy Agency (IAEA). The new provisions will address background investigations, access control, physical security during use, and physical security during any transport of category 1 and category 2 quantities of radioactive material. At this time, the staff is only posting the preliminary draft language for the background investigations and access control program. These requirements will be contained in subpart B of the new part 37. The draft preliminary language for the transportation security was noticed in November 2008 (73 FR 69590; November 19, 2008). Draft preliminary language for physical security during use will be posted and noticed in the future. The availability of the preliminary draft rule language is intended to inform stakeholders of the current status of the NRC's activities and solicit public comments on the information being provided at this time. Comments may be provided as indicated under the **ADDRESSES** heading.

The NRC may post updates periodically under Docket # NRC-2008-0120 on the Federal eRulemaking Portal at <http://www.regulations.gov> that may be of interest to stakeholders.

DATES: Submit comment by June 1, 2009. Comments received after this date will be considered if it is practical to do so, but the NRC is able to assure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any one of the following methods. Please include the number RIN 3150-A112 in the subject line of your comments. Comments on rulemakings submitted in writing or in electronic form will be made available to the public in their entirety in NRC's Agencywide Documents Access and Management System (ADAMS) and at <http://www.regulations.gov>. Personal information, such as your name, address, telephone number, e-mail address, etc., will not be removed from your submission.

Federal e-Rulemaking Portal: Go to <http://www.regulations.gov> and search for documents filed under Docket ID [NRC-2008-0120]. Address questions about NRC dockets to Carol Gallagher 301-415-5905; e-mail Carol.Gallagher@nrc.gov.

Mail comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Rulemakings and Adjudications Staff.

E-mail comments to: Rulemaking.Comments@nrc.gov. If you do not receive a reply e-mail confirming that we have received your comments, contact us directly at 301-415-1677. Comments can also be submitted via the Federal eRulemaking Portal <http://www.regulations.gov>.

Hand deliver comments to: 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 am and 4:15 pm Federal workdays. (Telephone 301-415-1677)

Fax comments to: Secretary, U.S. Nuclear Regulatory Commission at 301-415-1101.

You can access publicly available documents related to this document using the following methods:

NRC's Public Document Room (PDR): The public may examine and have copied for a fee publicly available documents at the NRC's PDR, Public File Area O-1F21, One White Flint

North, 11555 Rockville Pike, Rockville, Maryland 20852-2738.

NRC's Agencywide Documents Access and Management System (ADAMS): Publicly available documents created or received at the NRC are available electronically at the NRC's Electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.html>. From this page, the public can gain entry into ADAMS, which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's PDR reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr.resource@nrc.gov.

Federal e-Rulemaking Portal: Go to <http://www.regulations.gov> and search for documents filed under Docket ID [NRC-2008-0120].

FOR FURTHER INFORMATION CONTACT: Merri Horn, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone 301-415-8126, e-mail Merri.Horn@nrc.gov.

SUPPLEMENTARY INFORMATION: The preliminary draft rule language can be viewed and downloaded electronically via the Federal eRulemaking Portal at <http://www.regulations.gov> by searching for Docket # NRC-2008-0120 as well as in ADAMS under ADAMS Accession Number ML090900428.

The staff is proposing to add a new part 37 that will contain the security (physical protection) requirements that are designed to provide reasonable assurance of preventing the theft or diversion of category 1 and category 2 quantities of radioactive material as designated by the International Atomic Energy Agency. The new provisions will address background investigations and access control, physical security during use, and physical security during any transport of category 1 and category 2 quantities of radioactive material. At this time, the staff is only posting the preliminary draft language for the background investigation and access control program. These requirements will be contained in subpart B of the new part 37. Draft preliminary language for physical protection during use will be posted and noticed in the future.

The NRC is making a preliminary version of this draft proposed rule language available to inform

stakeholders of the current status of this proposed rulemaking. The NRC is inviting stakeholders to comment on the draft preliminary language. This preliminary draft rule language may be subject to significant revisions during the rulemaking process. Public input at this stage will help inform the development of the proposed rule.

The NRC will review and consider any comments received; however, the NRC will not respond to any comments received at this pre-rulemaking stage. As appropriate, the Statements of Consideration for the proposed rule will briefly discuss any substantive changes made to the preliminary draft proposed rule language as a result of comments received on this preliminary version. Stakeholders will also have an opportunity to comment on the rule language when it is published as a proposed rule in accordance with the provisions of the Administrative Procedure Act. The NRC will respond to any such comments in the Statements of Consideration for the final rule.

The NRC may post updates to the preliminary draft proposed rule language on the Federal eRulemaking Portal under Docket # NRC-2008-0120. Regulations.gov allows members of the public to set-up notifications so that they may be alerted when documents are added to a docket. Users are notified via e-mail at an e-mail address provided at the time of registration for the notification. Directions for signing up for the automatic notifications can be found at <http://www.regulations.gov>. To do so, search for the docket you are interested in and then choose "Notification," found under the title of each action.

Dated at Rockville, Maryland, this 10th day of April 2009.

For the Nuclear Regulatory Commission.

Mark R. Shaffer,

Director, Division of Intergovernmental Liaison and Rulemaking, Office of Federal and State Materials and Environmental Management Programs.

[FR Doc. E9-8830 Filed 4-16-09; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2009-0201; Directorate Identifier 2008-NE-47-AD]

RIN 2120-AA64

Airworthiness Directives; Thielert Aircraft Engines GmbH (TAE) Models TAE 125-01 and TAE 125-02-99 Reciprocating Engines Installed in, but not Limited to, Diamond Aircraft Industries Model DA42 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for the products listed above. This proposed 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-flight shutdown incidents have been reported on Diamond Aircraft Industries DA42 aircraft equipped with TAE 125 engines. Preliminary investigations showed that it was mainly the result of failure of the propeller control valve. This condition, if not corrected, could lead to further cases of engine in-flight shutdown, possibly resulting in reduced control of the aircraft.

We are proposing this AD to prevent engine in-flight shutdown, possibly resulting in reduced control of the aircraft.

DATES: We must receive comments on this proposed AD by May 18, 2009.

ADDRESSES: You may send comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically.

- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12-140, Washington, DC 20590-0001.

- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

- *Fax:* (202) 493-2251.

Examining the AD Docket

You may examine the AD docket on the Internet at <http://www.regulations.gov>; or in person at the Docket Operations office between 9 a.m.

and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647-5527) is the same as the Mail address provided in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT:

Jason Yang, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: jason.yang@faa.gov; telephone (781) 238-7747; fax (781) 238-7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA-2009-0201; Directorate Identifier 2008-NE-47-AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to <http://www.regulations.gov>, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of the Web site, anyone can find and read the comments in any of our dockets, including, if provided, the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78).

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2008-0145, dated August 1, 2008 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products.] The MCAI states:

In-flight shutdown incidents have been reported on Diamond Aircraft Industries DA42 aircraft equipped with TAE 125 engines. Preliminary investigations showed