

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 32

RIN: 3150-AF76

License Applications for Certain Items Containing Byproduct Material

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is resolving a petition for rulemaking submitted by mb-microtec, Inc. (PRM-32-4) by proposing to amend its regulations to permit the distribution of timepieces containing gaseous tritium light sources (GTLS) to be regulated in accordance with the same requirements as timepieces containing tritium paint. The proposed rule would remove from the regulations the specific requirements for prototype testing of these products containing tritium, and provide guidance for prototype testing in a separate document. If adopted, this proposed amendment would simplify the licensing process for distribution of certain timepieces containing tritium and would facilitate the use of a new technology in self-illuminated timepieces.

DATES: Submit comments by December 3, 1997. 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. ATTN: Rulemakings and Adjudications Staff.

Deliver comments to: 11555 Rockville Pike, Rockville, Maryland, between 7:45 am and 4:15 pm, Federal workdays.

Examine comments received, the regulatory analysis, and other documents related to this rulemaking at the NRC Public Document Room, 2120

L Street NW., (Lower Level), Washington, DC.

You may also provide comments via the NRC's interactive rulemaking website through the NRC home page (<http://www.nrc.gov>). This site provides the availability 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; Email CAG@nrc.gov.

Single copies of this proposed rulemaking may be obtained by written request or telefax from Mary L. Thomas, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission. These same documents may also be viewed and downloaded via the interactive rulemaking website established by NRC for this rulemaking.

FOR FURTHER INFORMATION CONTACT: Mary L. Thomas, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington DC 20555-0001, telephone 301-415-6230, telefax 301-415-5389, Email MLT1@NRC.GOV.

SUPPLEMENTARY INFORMATION:

Background

The Petition for Rulemaking

In a letter dated July 30, 1993, mb-microtec, Inc. petitioned the NRC to amend its regulations "to include timepieces containing gaseous tritium light sources (GTLS) on the same regulatory basis as those with tritium paint in regard to their distribution exempt from the requirements of 10 CFR 32.14(d)."

In the petition, the petitioner stated the following:

With new technology greater illumination could be achieved with less radioactivity than needed for a painted watch but that the additional requirements to get a GTLS watch approved for distribution results in manufacturers not using this technology.

On August 9, 1993, the NRC docketed the letter as a petition for rulemaking (Docket No. PRM-32-4). A notice of receipt of petition for rulemaking was published for public comment in the **Federal Register** on October 29, 1993 (58 FR 52670). No public comments were received on the notice concerning the petition.

Current NRC Regulations for Certain Items Containing Byproduct Material

Section 30.15(a)(1) states that if a timepiece containing byproduct material is to be distributed to persons exempt from the NRC's licensing requirements, it may not contain more than 5 millicuries per hand, not more than 15 millicuries in the dial, and not more than 25 millicuries of tritium in total. Section 32.14(d)(1) contains overall performance requirements for the binding of tritium to watch hands, pointers, and dials, as well as specific prototype testing requirements for tritium-painted watch hands, pointers, and dials. Although 10 CFR 30.15(a)(1) does not specify a form for tritium in timepieces, the prototype testing requirements in 10 CFR 32.14(d)(1)—the section of the NRC's regulations under which a specific license to distribute watches exempt under 10 CFR 30.15(a)(1) is granted—are only applicable to timepieces employing tritium paint.

Watches containing greater than 25 millicuries of tritium in GTLSs may be distributed to persons exempt from licensing requirements in accordance with 10 CFR 30.19, "Self-luminous products containing tritium, krypton-85, or promethium-147," which, unlike 10 CFR 30.15(a)(1), specifies neither a limit on the amount of tritium that may be incorporated into self-luminous products nor the end use of the product. However, to distribute a self-luminous watch containing tritium to persons exempt from licensing requirements in 10 CFR 30.19, a specific license must be obtained in accordance with 10 CFR 32.22. To manufacture, process, produce, or initially transfer self-luminous products containing unrestricted amounts of tritium under 10 CFR 32.22(a)(2), the applicant must submit detailed information and analyses concerning the particular product in order to obtain approval for distribution. The information required by 10 CFR 32.22 must be sufficient to demonstrate that the product meets a number of specific safety criteria, including dose criteria for use and disposal. The application must include proposed prototype testing procedures, which must be approved by the NRC. Further, the evaluations conducted by both the licensee and the staff, as well as the prototype testing proposed, apply to the entire product rather than its

components. Conversely, approval for distribution of timepieces containing less than 25 millicuries of tritium to persons exempt from licensing requirements in 10 CFR 30.15(a)(1)(i) requires a specific license under 10 CFR 32.14, but only requires satisfaction of the prototype testing requirements contained in 10 CFR 32.14(d). Consequently, it is less burdensome upon a licensee to distribute watches employing tritium illumination under 10 CFR 32.14 than under 10 CFR 32.22.

Proposed Amendments

The NRC has carefully reviewed the arguments presented by the petitioner and is proposing to resolve the petition by initiating this rulemaking that incorporates the petition in part. Rather than revise the specific testing requirements in the regulations as proposed by the petitioner to accommodate both tritium paint and GTLSs, the NRC is proposing a more performance-based approach by removing the existing specific testing procedures from the regulations. Guidance on specific prototype testing procedures will be provided in draft NUREG-1562, "Standard Review Plan for Applications for Licenses to Distribute Byproduct Material to Persons Exempt from the Requirements for an NRC License," which will be issued for public comment. Further, the proposed rule would modify but not change the intent of the existing general performance standard. This modification will state that the method of containment or binding of the byproduct be such that the radioactive material will be bound and will not become detached from the product under the most severe conditions which are likely to be encountered in normal use and handling. By making these modifications to § 32.14(d), increased flexibility in the regulations will be provided and future developments in technology and design of tritium illuminated timepieces will be accommodated. These modifications will not decrease the level of radiation protection provided to users of tritium illuminated timepieces. Also, the radiation skin dose to an individual from timepieces containing GTLSs has been determined to be significantly less, per millicurie of tritium used, than the skin dose from timepieces containing tritium paint.

Rationale

The licensing process is more burdensome to potential distributors of timepieces under 10 CFR 30.19 than under 10 CFR 30.15(a)(1). Changing the prototype testing requirements in 10

CFR 32.14(d)(1) would simplify the licensing process for distributors of timepieces containing small quantities of tritium in the GTLS form by allowing them to apply to distribute these timepieces for use under the same requirements of the regulations as timepieces using tritium paint (10 CFR 30.15(a)(1)).

Effects of the Proposed Amendments

The effect of this proposed amendment would allow distribution of self-illuminated timepieces that utilize a new technology (GTLS) under the same requirements that currently allow distribution of timepieces using tritium paint.

Agreement State Compatibility

Under the Atomic Energy Act, certain regulatory functions are reserved to the NRC. Among these are the distribution of products to persons exempt from licensing, as discussed in 10 CFR part 150. Hence, the proposed rule, if adopted, would be an NRC Category of compatibility with regard to the manufacture and initial distribution of watches and other products for use. NRC Category rules address those regulatory areas which are reserved to NRC pursuant to the Atomic Energy Act and 10 CFR part 150.

Environmental Impact: Categorical Exclusion

The NRC has determined that the proposed rule is the type of action described as a categorical exclusion in 10 CFR 51.22(c)(2). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this proposed rule.

Paperwork Reduction Act Statement

This proposed rule would reduce the burden to licensees for GTLS by allowing them to file an application under the provisions of section 32.14 rather than under those of section 32.22, which also requires that the applicant obtain a registration certificate. The reduction in burden is estimated to be 21 hours per response. Because the application requirements contained in sections 32.14 and 32.22 are not being substantively changed, no Office of Management and Budget (OMB) clearance is required. 10 CFR part 32 requirements are approved by the OMB approval number 3150-0001.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, an information collection unless it displays a currently valid OMB control number.

Regulatory Analysis

The NRC has prepared a draft regulatory analysis for the proposed amendment. The analysis examines the benefits and impacts considered by the NRC. The draft regulatory analysis is available for inspection at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC. Single copies may be obtained from Mary L. Thomas, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone 301-415-6230 or e-mail at MLT1@NRC.GOV.

Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission certifies that this rule will not have a significant economic impact upon a substantial number of small entities. Any small entity subject to this regulation which determines that, because of its size, it is likely to bear a disproportionate adverse economic impact should notify the Commission of this in a comment that indicates the following:

(a) The licensee's size and how the regulation would result in a significant economic burden upon the licensee as compared to the economic burden on a larger licensee.

(b) How the regulations could be modified to take into account the licensee's differing needs or capabilities.

(c) The benefits that would accrue, or the detriments that would be avoided, if the regulations were modified as suggested by the licensee.

(d) How the regulation, as modified, would more closely equalize the impact of regulations or create more equal access to the benefits of Federal programs as opposed to providing special advantages to any individual or group.

(e) How the regulation, as modified, would still adequately protect public health and safety.

Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this proposed rule, and therefore, a backfit analysis is not required because these amendments do not involve any provisions that would impose backfits as defined in 10 CFR 50.109(a)(1).

List of Subjects in 10 CFR Part 32

Byproduct material, Criminal penalties, Labeling, Nuclear materials, Radiation protection, Reporting and recordkeeping requirements.

For the reasons set out in the preamble and under the authority of the

Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is proposing to adopt the following amendment to 10 CFR Part 32.

PART 32—SPECIFIC DOMESTIC LICENSES TO MANUFACTURE OR TRANSFER CERTAIN ITEMS CONTAINING BYPRODUCT MATERIAL

1. The authority citation for Part 32 continues to read as follows:

Authority: Secs. 81, 161, 183, 186, 68 Stat. 935, 948, 953, 954, as amended, (42 U.S.C. 2111, 2201, 2232, 2233); sec. 201, 88 Stat. 1242, as amended, (42 U.S.C. 5841).

2. In § 32.14, paragraph (d) is revised to read as follows:

§ 32.14 Certain items containing byproduct material; requirements for license to apply or initially transfer.

* * * * *

(d) The Commission determines that:
(1) The method of containment or binding of the byproduct material in the product is such that the radioactive material will be bound and will not become detached from the product under the most severe conditions which are likely to be encountered in normal use and handling.

(2) Prototype tests for automobile lock illuminators are prescribed by 10 CFR 32.40, Schedule A.

Dated at Rockville, Maryland, this 15th day of September, 1997.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Secretary of the Commission.

[FR Doc. 97-24913 Filed 9-18-97; 8:45 am]

BILLING CODE 7590-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 21

Proposed Airworthiness Standards for Acceptance Under the Primary Category Rule

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Request for comments.

SUMMARY: This notice requests comments on proposed airworthiness standards for acceptance of the Dragonfly Model 333 helicopter under 14 CFR 21.17(f), designation of applicable regulations for primary category aircraft.

DATES: Comments must be received on or before October 20, 1997.

ADDRESSES: Send all comments to the FAA, Rotorcraft Directorate, Aircraft

Certification Service, Rotorcraft Standards Staff, Fort Worth, Texas 76193-0110.

FOR FURTHER INFORMATION CONTACT: Scott Horn, Aerospace Engineer, Rotorcraft Standards Staff (ASW-110), Rotorcraft Directorate, Aircraft Certification Service, FAA; telephone number (817) 222-5125, fax number (817) 222-5961.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite interested parties to submit comments on the proposed airworthiness standards to the address specified above. The FAA will consider all communications received on or before the closing date before issuing the final acceptance. The proposed airworthiness standards and comments received may be inspected at the FAA, Rotorcraft Directorate, Aircraft Certification Service, Rotorcraft Standards Staff, 2601 Meacham Blvd., Fort Worth, TX 76137, between the hours of 7:30 a.m. and 4:00 p.m. weekdays, except Federal holidays.

Background

The "primary" category for aircraft was created specifically for the simple, low performance personal aircraft. Section 21.17(f) provides a means for applicants to propose airworthiness standards for their particular primary category aircraft. The FAA procedure establishing appropriate airworthiness standards includes reviewing and possibly revising the applicants proposal, publication of the submittal in the **Federal Register** for public review and comment, and addressing the comments. After all necessary revisions, the standards are published as approved FAA airworthiness standards.

Accordingly, the applicant has submitted a request to the FAA to include the Italian airworthiness authority's very light rotorcraft (VLR) rules as part of the primary category rotorcraft rules. The requester justifies this request by noting that the Italian airworthiness authority has approved the applicant's aircraft in Italy under the VLR rules. The FAA has considered the applicant's proposal and has determined that those 14 CFR part 27 and 33 requirements equivalent to the Italian VLR rules and certain additional airworthiness standards should apply.

Proposed Airworthiness Standards for Acceptance Under the Primary Category Rule (PCR)

PCR.1 Applicability

(a) This document prescribes airworthiness standards for the issue of

a type certificate and changes to that type certificate for the Dragon Fly Model 333, a Primary Category rotorcraft and its engine.

(b) Each person who applies under part 21 for a change to this certificate must show compliance with these requirements.

27.2(a), (b), and (c); 27.21; 27.25(a) and (b); 27.27; 27.29; 27.31; 27.33; 27.45(a), (b), (c), and (d); 27.51; 27.71; 27.73(a)(1)(i), (a)(1)(iii), and (a)(2)(i); 27.75(a)(1), (a)(2)(i), and (a)(3); 27.79(a), and (b)(1); 27.141(a), (b)(2), and (b)(3); 27.143(a), (b), (d), and (e);

PCR.143(c) A wind direction and velocity must be established in which the rotorcraft can be operated without loss of control on or near the ground in any maneuver appropriate to the type including crosswind takeoffs, sideward flight, and rearward flight with—

- (1) Critical weight;
- (2) Critical center of gravity;
- (3) Critical rotor RPM and
- (4) Altitude, from standard sea level conditions to the maximum altitude capability of the rotorcraft or 7000 feet, whichever is less.

27.151; 27.161; 27.171; 27.173; 27.175; 27.177; 27.231; 27.235; 27.239; 27.241; 27.251; 27.301; 27.305; 27.307; 27.309; 27.321; 27.337; 27.339; 27.341; 27.351; 27.361; 27.391; 27.395; 27.397; 27.399; 27.411; 27.427; 27.471; 27.473; 27.475; 27.477; 27.479; 27.481; 27.483; 27.485; 27.493; 27.497; 27.501; 27.505; 27.521; 27.547; 27.549; 27.561(a), (b)(1), and (c);

PCR.561(b)(2) Each occupant and each item of mass inside the cabin that could injure an occupant is restrained when subjected to the following ultimate inertial load factors relative to the surrounding structure: (i) Upward—3g. (ii) Forward—9g. (iii) Sideward—3g. (iv) Downward—9g.

27.571(a), (b), and (c); 27.601; 27.603; 27.605; 27.607; 27.609; 27.611; 27.613(a);

PCR.613(b) The design values must be so chosen that the probability of any structure being understrength because of material variations is extremely remote.

(c) Values contained in MIL-HDBK-5, MIL-HDBK-17 Part I, ANC-17 Part II, ANC-18, MIL-HDBK-23 Part I, and ANC-23 Part II must be used unless shown to be inapplicable in a particular case.

(d) The strength, detail design, and fabrication of the structure must minimize the probability of disastrous fatigue failure.

27.619; 27.621; 27.623; 27.625;

PCR.625(d) Each seat and safety belt with harness attachment to the structure must be shown by analysis, tests, or