

# 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 51

[Docket No. PRM-51-29; NRC-2012-0215]

### Rescinding Spent Fuel Pool Exclusion Regulations

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Petition for rulemaking; notice of receipt.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) has received a petition for rulemaking from the Commonwealth of Massachusetts (Commonwealth or petitioner) requesting that the NRC rescind its regulations excluding consideration of spent fuel pool storage impacts from license renewal environmental review. The petition was filed on June 2, 2011, with the NRC's Atomic Safety Licensing Board (ASLB) in conjunction with a request for a waiver of the NRC's spent fuel pool exclusion regulations. The petitioner requested that, if the ASLB rejected the Commonwealth's waiver petition, the NRC initiate a rulemaking. On November 28, 2011, the ASLB denied the Commonwealth's waiver petition, and on March 8, 2012, in a Commission Memorandum and Order, the petition for rulemaking was referred to NRC staff. The NRC is not requesting public comment period on this petition at this time.

**ADDRESSES:** Please refer to Docket ID NRC-2012-0215 when contacting the NRC about the availability of information for this petition. You may access information related to this petition, which the NRC possesses and are publicly available, by any of the following methods:

- *Federal Rulemaking Web site:* Go to <http://www.regulations.gov> and search for Docket ID NRC-2012-0215. Address questions about NRC dockets to Carol Gallagher; telephone: 301-492-3668; email: [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov).

- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly available documents online in the NRC Library at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by email to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov). The ADAMS accession number for each document referenced in this notice (if that document is available in ADAMS) is provided the first time that a document is referenced.

- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

**FOR FURTHER INFORMATION CONTACT:** Cindy Bladley, Chief, Rules, Announcements, and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-492-3667, email: [Cindy.Bladley@nrc.gov](mailto:Cindy.Bladley@nrc.gov).

#### SUPPLEMENTARY INFORMATION:

#### I. The Petitioner

The Commonwealth of Massachusetts, Office of the Attorney General, Environmental Protection Division has filed this petition (ADAMS Accession No. ML12254A005) with the NRC.

#### II. The Petition

The petitioner requests that the NRC institute a rulemaking to rescind the regulations excluding consideration of spent fuel storage impacts from license renewal environmental review. Specifically, the petitioner requests that the spent fuel pool exclusion regulations in § 51.71(d) of Title 10 of the *Code of Federal Regulations* (10 CFR) and appendix B to subpart A of 10 CFR part 51, be rescinded because these regulations "generically classify the environmental impacts of high-density pool storage of spent fuel as insignificant and thereby permit their exclusion from consideration in environmental impact statements (EISs) for renewal of nuclear power plant operating licenses."

The petitioner argues that "the appropriate vehicle for revising the conclusions that underlie the spent fuel

pool exclusion regulations is a waiver [of 10 CFR 51.71(d) and 10 CFR part 51 subpart A, appendix B], because \* \* \* many of the implications of the Fukushima accident for the Pilgrim NPP license renewal proceeding are site specific." The petition continues: "[i]n the alternative, in the event that the ASLB denies the Commonwealth's Waiver Petition, pursuant to 10 CFR 2.802(a), the Commonwealth asks the NRC to rescind the spent fuel pool exclusion regulations across the board, in a rulemaking." The petition specifically states that, if the ASLB determines that a waiver is not justified, "the Secretary should rescind the spent fuel exclusion regulations on a generic basis." The petitioner states that rescinding the spent fuel pool exclusion regulations is necessary to challenge "the adequacy of the environmental impact analysis and severe accident mitigation alternatives (SAMA) analysis performed by Entergy Corp. and the NRC in support of their proposal to re-license the Pilgrim nuclear power plant (NPP), in light of significant new information revealed by the Fukushima accident." The petitioner states that "significant new information yielded by the Fukushima accident shows fundamental errors or oversights in the key environmental analyses relied on by the NRC for its generic designation of spent fuel storage impacts as insignificant. \* \* \*" The petitioner further states that "[t]he purpose of the spent fuel pool exclusion regulations—to make a generic finding of no significant impact for all NPPs—would not be served where the Fukushima accident has demonstrated that environmental impacts of spent fuel storage are so significant and where the insights from the Fukushima accident have such a plant-specific application."

In an ASLB Memorandum and Order dated November 28, 2011, the Commonwealth of Massachusetts's request for a waiver was denied (ADAMS Accession No. ML11332A152). Subsequently, in a Commission Memorandum and Order dated March 8, 2012, the Commonwealth's petition for rulemaking was referred to NRC staff for appropriate resolution (ADAMS Accession No. ML12068A187). NRC staff has determined that the Commonwealth's petition for rulemaking has met the basic requirements set forth in 10 CFR

2.802(c). The petitioner has specified the regulations that it would like revoked. Additionally, the petitioner has stated its grounds for and interest in this action. Lastly, the petition sets forth the specific issues involved, provides views and arguments in favor of the petitioner's position, and provides relevant data to support the request to rescind 10 CFR 51.71(d) and 10 CFR part 51 subpart A, appendix B. Because the petitioner has satisfied the acceptance criteria in 10 CFR 2.802(c), the NRC has accepted, and will review the petition for rulemaking. The NRC is not requesting public comment on this petition at this time.

Dated at Rockville, Maryland, this 13th day of December 2012.

For the Nuclear Regulatory Commission,  
**Annette L. Vietti-Cook,**  
*Secretary of the Commission.*

[FR Doc. 2012-30528 Filed 12-18-12; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 25

[Docket No. FAA-2012-1207; Notice No. 25-12-09-SC]

#### **Special Conditions: Airbus, A350-900 Series Airplane; Flight Envelope Protection (Icing and Non-Icing Conditions); High Incidence Protection and Alpha-Floor Systems**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed special conditions.

**SUMMARY:** This action proposes special conditions for Airbus A350-900 series airplanes. These airplanes will have novel or unusual design features associated with flight envelope protection in icing and non-icing conditions that use low speed incidence protection and an alpha-floor function that automatically advances throttles whenever the airplane angle of attack reaches a predetermined value. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These proposed special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

**DATES:** Send your comments on or before February 4, 2013.

**ADDRESSES:** Send comments identified by docket number FAA-2012-1207 using any of the following methods:

- **Federal eRegulations Portal:** Go to <http://www.regulations.gov> and follow the online instructions for sending your comments electronically.
- **Mail:** Send comments to Docket Operations, M-30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12-140, West Building Ground Floor, Washington, DC 20590-0001.
- **Hand Delivery of Courier:** Take comments to Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 8 a.m., and 5 p.m., Monday through Friday, except Federal holidays.
- **Fax:** Fax comments to Docket Operations at 202-493-2251.

**Privacy:** The FAA will post all comments it receives, without change, to <http://regulations.gov>, including any personal information the commenter provides. Using the search function of the docket Web site, anyone can find and read the electronic form of all comments received into any FAA docket, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477-19478), as well as at <http://DocketsInfo.dot.gov>.

**Docket:** Background documents or comments received may be read at <http://www.regulations.gov> at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Joe Jacobsen, FAA, Airframe and Flightcrew Interface, ANM-111, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98057-3356; telephone (425) 227-2011; facsimile (425) 227-1320.

#### **SUPPLEMENTARY INFORMATION:**

##### **Comments Invited**

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data.

We will consider all comments we receive on or before the closing date for

comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change these special conditions based on the comments we receive.

#### **Background**

On August 25, 2008, Airbus applied for a type certificate for their new A350-900 series airplane. Later, Airbus requested and the FAA approved an extension to the application for FAA type certification to June 28, 2009. The A350-900 series airplane has a conventional layout with twin wing-mounted Rolls-Royce Trent engines. It features a twin aisle 9-abreast economy class layout, and accommodates side-by-side placement of LD-3 containers in the cargo compartment. The basic A350-900 series airplane configuration accommodates 315 passengers in a standard two-class arrangement. The design cruise speed is Mach 0.85 with a Maximum Take-Off Weight of 602,000 lbs. Airbus proposes the A350-900 series airplane to be certified for extended operations (ETOPS) beyond 180 minutes at entry into service.

#### **Type Certification Basis**

Under title 14, Code of Federal Regulations (14 CFR) 21.17, Airbus must show that the A350-900 series airplane meets the applicable provisions of 14 CFR part 25, as amended by Amendments 25-1 through 25-128.

If the Administrator finds that the applicable airworthiness regulations (i.e., part 25) do not contain adequate or appropriate safety standards for the A350-900 series airplanes because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same or similar novel or unusual design feature, the special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, A350-900 series airplanes must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36 and the FAA must issue a finding of regulatory adequacy under section 611 of Public Law 92-574, the "Noise Control Act of 1972."

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of