

# 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 73

[Docket No. PRM-73-13]

#### Union of Concerned Scientists; Receipt of Petition for Rulemaking

**AGENCY:** U.S. Nuclear Regulatory Commission.

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

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is publishing for public comment a notice of receipt of a petition for rulemaking, dated February 21, 2007, which was filed with the Commission by David Lochbaum, Director, Nuclear Safety Project, on behalf of the Union of Concerned Scientists. The petition was docketed by the NRC on February 23, 2007, and has been assigned Docket No. PRM-73-13. The petitioner requests that the NRC amend its regulations to close a loophole in current regulations that would enable persons who do not meet trustworthiness and reliability standards for unescorted access to protected areas of nuclear power plants the permission to enter protected areas with an unarmed escort. The petitioner believes that current regulations create a security vulnerability that could potentially compromise public health and safety.

**DATES:** Submit comments by June 25, 2007. 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:** You may submit comments by any one of the following methods. Please include PRM-73-13 in the subject line of your comments. Comments on petitions submitted in writing or in electronic form will be made available for public inspection. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information

in your submission that you do not want to be publicly disclosed.

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

E-mail comments to: [SECY@nrc.gov](mailto:SECY@nrc.gov). If you do not receive a reply e-mail confirming that we have received your comments, contact us directly at (301) 415-1966. You may also submit comments via the NRC's rulemaking Web site at <http://ruleforum.llnl.gov>. Address questions about our rulemaking Web site to Carol Gallagher (301) 415-5905; e-mail [cag@nrc.gov](mailto:cag@nrc.gov). 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 a.m. and 4:15 p.m. Federal workdays. (Telephone (301) 415-1966).

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

Publicly available documents related to this petition may be viewed electronically on the public computers located at the NRC's Public Document Room (PDR), Room O1 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland. The PDR reproduction contractor will copy documents for a fee. Selected documents, including comments, may be viewed and downloaded electronically via the NRC rulemaking Web site at <http://ruleforum.llnl.gov>.

Publicly available documents created or received at the NRC after November 1, 1999, are available electronically at the NRC's Electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.html>. From this site, the public can gain entry into the NRC's Agencywide Document Access and Management System (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 PDR Reference staff at 1-800-397-4209, 301-415-4737 or by e-mail to [pdr@nrc.gov](mailto:pdr@nrc.gov).

**FOR FURTHER INFORMATION CONTACT:** Michael T. Lesar, Chief, Rulemaking, Directives and Editing Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-

0001, Telephone: 301-415-7163 or Toll Free: 800-368-5642.

#### SUPPLEMENTARY INFORMATION:

##### The Petitioner

The petitioner is the Union of Concerned Scientists. The petitioner states that it is a nonprofit partnership of scientists and citizens that combines scientific analysis, policy development, and citizen advocacy to achieve practical environmental solutions. In 2002, the Union of Concerned Scientists had 61,300 members.

The petitioner states that the Union of Concerned Scientists has been an active participant in the past in public meetings conducted by NRC regarding security regulations, and that the petitioner continues to articulate potential problems and recommended solutions in various public arenas.

##### Background

Current regulations at 10 CFR part 73 contain requirements for the physical protection of nuclear power plants and materials. Specifically, §§ 73.55(d), 73.56(b), and 73.57(b) outline procedures for granting access to protected areas of nuclear power plants. Section 73.55 (d)(6) states that a person who has not been granted unescorted access to protected areas may be granted access with an escort. Section 73.56(b) requires that licensees establish and maintain an access authorization program granting individuals unescorted access to protected and vital areas with the objective of providing high assurance that individuals granted unescorted access are trustworthy and reliable. Section 73.57 requires the fingerprinting of persons who have been granted unescorted access.

The petitioner states that while current regulations require access control to protected areas, including fingerprinting and background clearances, § 73.55(d)(6) would allow access to protected areas by persons who do not meet trustworthiness and reliability standards for unescorted access to the protected area. The petitioner further states that current regulations enable persons who do not meet trustworthiness and reliability standards for unescorted access to the protected area to be escorted through protected areas by unarmed persons that may not be members of the security force. The petitioner believes that this is

a loophole that creates a security vulnerability that could potentially compromise public health and safety.

### The Proposed Amendments

The petitioner requests that 10 CFR part 73 be amended to require that licensees implement procedures to ensure that: (1) When information becomes known to a licensee about an individual that would prevent that individual from gaining unescorted access to the protected area of a nuclear power plant, the licensee will implement measures to ensure the individual does not enter the protected area, whether escorted or not; and (2) when sufficient information is not available to a licensee about an individual to determine whether the criteria for unescorted access are satisfied, the licensee will implement measures to allow that individual to enter the protected area only when escorted at all times by an armed member of the security force who remains in periodic communication with security supervision. In the case of the first proposal, the petitioner believes that when it is known that a person's trustworthiness and reliability do not meet the prescribed standards identified in § 73.56(b), access to protected areas, either escorted or unescorted, should be denied. In the case of the second proposal, the petitioner recognizes that it is impractical and burdensome to conduct background investigations of every person requiring access to a protected area, noting persons may need one-time access. With that in mind, the petitioner proposes granting these persons access to protected areas, but only when escorted by an armed member of the security force and only when this armed member is in periodic communication with security supervision.

### Conclusion

The petitioner believes that current regulations create a security vulnerability that could potentially compromise public health and safety. The petitioner believes that its proposed amendments to 10 CFR part 73 will address this vulnerability in current regulations that enables persons who do not meet trustworthiness and reliability standards for unescorted access to protected areas of nuclear power plants permission to enter protected areas with an unarmed escort. Accordingly, the petitioner requests that the NRC amend its regulations related to the physical protection of nuclear power plants and materials as described previously in the section titled, "The Proposed Amendments."

Dated at Rockville, Maryland, this 3rd day of April 2007.

**Kenneth R. Hart,**

*Acting Secretary of the Commission.*

[FR Doc. E7-6644 Filed 4-6-07; 8:45 am]

**BILLING CODE 7590-01-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 25

[Docket No. NM366 Special Conditions No. 25-07-03-SC]

#### Special Conditions: Boeing Model 787-8 Airplane; Composite Wing and Fuel Tank Structure—Fire Protection Requirements

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

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

**SUMMARY:** This notice proposes special conditions for the Boeing Model 787-8 airplane. This airplane will have novel or unusual design features when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. These novel or unusual design features are associated with composite materials chosen for the construction of the fuel tank skin and structure. For these design features, the applicable airworthiness regulations do not contain adequate or appropriate safety standards for wing and fuel tank structure with respect to post-crash fire safety. 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. Additional special conditions will be issued for other novel or unusual design features of the Boeing Model 787-8 airplanes.

**DATES:** Comments must be received on or before May 24, 2007.

**ADDRESSES:** Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Transport Airplane Directorate, Attention: Rules Docket (ANM-113), Docket No. NM366, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; or delivered in duplicate to the Transport Airplane Directorate at the above address. All comments must be marked Docket No. NM366. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

### FOR FURTHER INFORMATION CONTACT:

Mike Dostert, FAA, Propulsion/Mechanical Systems, ANM-112, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 227-2132; facsimile (425) 227-1320.

### SUPPLEMENTARY INFORMATION:

#### Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting 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 ask that you send us two copies of written comments.

We will file in the docket all comments we receive as well as a report summarizing each substantive public contact with FAA personnel concerning these proposed special conditions. The docket is available for public inspection before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this notice between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

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 the proposed special conditions based on comments we receive.

If you want the FAA to acknowledge receipt of your comments on this proposal, include with your comments a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it back to you.

### Background

On March 28, 2003, Boeing applied for an FAA type certificate for its new Boeing Model 787-8 passenger airplane. The Boeing Model 787-8 airplane will be an all-new, two-engine jet transport airplane with a two-aisle cabin. The maximum takeoff weight will be 476,000 pounds, with a maximum passenger count of 381 passengers.

### Type Certification Basis

Under provisions of 14 CFR 21.17, Boeing must show that Boeing Model 787-8 airplanes (hereafter referred to as "the 787") meet the applicable provisions of 14 CFR part 25, as amended by Amendments 25-1 through 25-117, except §§ 25.809(a) and 25.812, which will remain at Amendment 25-