

# 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 2

#### Rules of Practice for Domestic Licensing Proceedings and Issuance of Orders; Public Meeting

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

**ACTION:** Notice of public meeting on potential changes to NRC hearing process.

**SUMMARY:** The Nuclear Regulatory Commission has recently initiated a re-examination of the processes and procedures for making the various kinds of decisions that require a "hearing". This re-examination will eventually result in a proposed rule noticed in the **Federal Register** for public comment. However, in order to have the benefit of early and interactive comment on the rulemaking issues before the NRC staff drafts the proposed rule for Commission consideration, the NRC is convening a public workshop to solicit the views of persons representing the interests that may be affected by the rulemaking. The public workshop will be held at the Commission's headquarters in Rockville, Maryland, on October 26 and 27 (½ day), 1999. Francis X. Cameron, Special Counsel for Public Liaison, in the Commission's Office of the General Counsel, will be the convener and facilitator for the workshop.

**DATES:** The public workshop will be in Rockville, Maryland on October 26, 1999 from 8:30 a.m. to 5:15 p.m. and on October 27, 1999 from 8:30 a.m. to 12:15 p.m.

**ADDRESSES:** The public workshop will be held in the Commission's hearing room at NRC Headquarters at 11555 Rockville Pike, Rockville, MD 20852-2738.

**FOR FURTHER INFORMATION CONTACT:** Francis X. Cameron, Special Counsel for Public Liaison, Office of the General Counsel, Nuclear Regulatory Commission, Washington, DC 20555-0001, Telephone: 301-415-1642.

**SUPPLEMENTARY INFORMATION:** The legal foundation for the NRC regulatory process is the Atomic Energy Act of 1954. The Act provides that a "hearing" (or in some cases, the opportunity for a hearing) is required for certain agency actions, but does not specify what kind of a hearing should be held. The Atomic Energy Commission (AEC), predecessor to the NRC, took the position that by a "hearing," the Atomic Energy Act meant a formal hearing, resembling a courtroom trial, with testimony given under oath and an opportunity for the parties to cross-examine the other side's witnesses. At the time, Congress and the AEC were focusing on the procedures for licensing the construction of nuclear power plants. Over time, however, it became apparent that the same format may not be ideal for all types of Commission proceedings and that the Atomic Energy Act generally does not require a formal, courtroom trial-type hearing. Consequently, the NRC developed new, less formal procedures for some types of proceedings.

In early 1999, the NRC's General Counsel sent a detailed memorandum to the Commissioners (SECY-99-006, "Re-Examination of the NRC Hearing Process") discussing legal requirements for NRC hearings and policy considerations to be taken into account in any revision of the NRC hearing process (the document is available to the public at the NRC's Website, [www.nrc.gov](http://www.nrc.gov), and is also available from the agency contact identified at the beginning of this Notice). The General Counsel's memorandum made no recommendation for revision of the hearing process, instead laying out the pros and cons of different approaches. In response to this memorandum, the Commission has directed the NRC legal staff to initiate a rulemaking to evaluate what changes should be made to the NRC hearing process. One of the primary issues for evaluation is the Commission's desire generally to move toward less formal proceedings. In initiating the rulemaking, the Commission recognized that it would be important to have the benefit of the expertise and concerns of those who may be affected by this action early in the rulemaking process. The public workshop is designed to solicit those views to assist in the formulation of the proposed rulemaking.

The objective of the public workshop is to bring together representatives of the interests affected by the rulemaking to discuss their views on the rulemaking issues in a "roundtable" format. In order to have a manageable discussion, the number of participants around the table will, of necessity, be limited. The Commission, through the facilitator for the meeting, will attempt to ensure broad participation by the broad spectrum of interests affected by the rulemaking, including citizen and environmental groups, nuclear industry interests, state, tribal, and local governments, and experts from academia and other agencies. Other members of the public are welcome to attend, and the public will have the opportunity to comment on each of the agenda items slated for discussion by the roundtable participants. Questions about participation may be directed to the facilitator, Francis X. Cameron.

The workshop will have a pre-defined scope and agenda (set forth below) focused on the major policy issues in regard to potential revisions to the NRC hearing process. However, the meeting format will be sufficiently flexible to allow for the introduction of additional related issues that the participants may wish to raise. Although there are important legal issues on the scope of the Commission's authority to revise its hearing process in particular ways (discussed in SECY-99-006), the purpose of the workshop is to hear the views of the participants on the policy issues surrounding the value of implementing various types of revisions, assuming for purposes of discussion that the Commission has the legal authority to revise its processes. The agenda for the workshop is set forth below.

#### Agenda

*Tuesday, October 26, 1999*

8:30 a.m.—Welcome, Groundrules, Agenda Overview, Introduction of Participants

F.X. Cameron, Facilitator

9:00 a.m.—Overview of NRC Hearing Process

Lawrence Chandler, Associate General Counsel for Hearings, Enforcement and Administration, NRC

9:30 a.m.—Emerging issues in addressing the degree of formality in agency adjudications

Professor Jeffrey Lubbers, Washington School of Law, American University. See Attachment 2, SECY-99-006

10:15 a.m.—Break

10:40 a.m.—What are the desired objectives or “performance goals” of the NRC hearing process? For example, SECY-99-006 suggests five performance goals (fairness, substantive soundness, inclusiveness, efficiency, and transparency). Are there other goals or objectives? Are any of these objectives more important than others?

Participant discussion

12:00 Noon—Lunch

1:15 p.m.—What are the attributes of a formal versus an informal hearing process? What are the defining characteristics of formal processes? Informal processes? For example, are discovery and sworn direct and cross-examination of witnesses solely attributes of formal processes or can they also fit into the spectrum of informal hearing processes?

Participant discussion

2:15 p.m.—What are the different “models” or variations of an informal hearing process? What are the advantages and disadvantages of each of these models? See Attachment 4, SECY-99-006.

Participant discussion

3:00 p.m.—Break

3:30 p.m.—How do formal and informal processes compare in achieving the desired objectives of the NRC hearing process? How much do opportunities for cross-examination and discovery contribute to the hearing process? What factors, for example, complexity and difficulty of the case, experience of litigants, might influence how effectively the goals or objectives are achieved? How much is the cost to participants of different kinds of hearings a consideration?

Participant discussion

5:00 p.m.—Preview of next day's discussion

5:15 p.m.—Adjourn

*Wednesday, October 27, 1999*

8:30 a.m.—Comparison of formal and informal processes: Summary discussion by participants

9:30 a.m.—Is the informal or formal process more appropriate for one type of NRC licensing action than another? For example, what process is more appropriate for enforcement proceedings? The high-level waste repository proceeding? Initial licensing of power reactors and fuel

cycle facilities? License amendments? What criteria should guide this decision? Can the selection of process be done on a case-by-case basis? By whom? At what stage of the proceeding?

Participant Discussion

10:15 a.m.—Break

10:30 a.m.—Are there improvements that can be made to the Commission's formal hearing process? Are there improvements that can be made to the Commission's informal hearing process? Are there issues that the NRC should address regardless of whether an informal or a formal hearing process is used, e.g., who presides? exercise of greater control by the “presiding officer”? role of limited appearances? standing? Discovery, cross-examination? Electronic filing? What about appeals? Is an appeal “of right”? To the Commission? Discretionary review?

Participant Discussion

Noon—Wrap up: Final comments, next steps

12:15 p.m.—Adjourn

Dated at Rockville, Maryland this 4th day of October, 1999.

For the Nuclear Regulatory Commission,  
**Karen D. Cyr,**  
*General Counsel.*

[FR Doc. 99-26487 Filed 10-8-99; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 99-CE-52-AD]

RIN 2120-AA64

#### Airworthiness Directives; Fairchild Aircraft Corporation SA226 and SA227 Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes to adopt a new airworthiness directive (AD) that would apply to all Fairchild Aircraft Corporation (Fairchild) SA226 and SA227 series airplanes. The proposed AD would require revising the Airplane Flight Manual (AFM) to include requirements for activation of the airframe pneumatic deicing boots. The proposed AD is the result of reports of in-flight incidents and an accident that occurred in icing conditions where

the airframe pneumatic deicing boots were not activated. The actions specified by the proposed AD are intended to assure that flightcrews activate the pneumatic wing and tail deicing boots at the first signs of ice accumulation. This action will prevent reduced controllability of the aircraft due to adverse aerodynamic effects of ice adhering to the airplane prior to the first deicing cycle.

**DATES:** Comments must be received on or before December 1, 1999.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99-CE-52-AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

**FOR FURTHER INFORMATION CONTACT:** Mr. John P. Dow, Sr., Aerospace Engineer, FAA, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone: (816) 426-6932; facsimile: (816) 426-2169.

#### 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 that summarizes 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. 99-CE-52-AD.” The postcard will be date stamped and returned to the commenter.