(p) * * *

(3) The licensee shall provide for the development, revision, implementation, and maintenance of its safeguards contingency plan by a review, as necessary, based on an assessment by the licensee against performance indicators, or as soon as reasonably practicable after a significant change occurs in personnel, procedures, equipment, or facilities, but no longer than 12 months after the change. The licensee shall ensure that all program elements are reviewed at least every 24 months by individuals independent of both security program management and personnel who have direct responsibility for implementation of the security program. The review must include a review and audit of safeguards contingency procedures and practices, an audit of the security system testing and maintenance program, and a test of the safeguards systems along with commitments established for response by local law enforcement authorities. The results of the review and audit, along with recommendations for improvements, must be documented, reported to the licensee's corporate and plant management, and kept available at the plant for inspection for a period of 3 years.

* * * * *

(t) The licensee shall provide for the development, revision, implementation, and maintenance of its emergency preparedness program by a review, as necessary, based on an assessment by the licensee against performance indicators, or as soon as reasonably practicable after a significant change occurs in personnel, procedures, equipment, or facilities, but no longer than 12 months after the change. The licensee shall ensure that all program elements are reviewed at least every 24 months by persons who have no direct responsibility for the implementation of the emergency preparedness program. The review shall include an evaluation for adequacy of interfaces with State and local governments and of licensee drills, exercises, capabilities, and procedures. The results of the review, along with recommendations for improvements, shall be documented, reported to the licensee's corporate and plant management, and retained for a period of five years. The part of the review involving the evaluation for adequacy of interface with State and local governments shall be available to the appropriate State and local governments.

* * * * *

## PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

3. The authority citation for part 73 continues to read as follows:

**Authority:** Secs. 53, 161, 68 Stat. 930, 948, as amended, sec. 147, 94 Stat. 780 (42 U.S.C. 2073, 2167, 2201); sec. 201, as amended, 204, 88 Stat. 1242, as amended, 1245, sec. 1701, 106 Stat. 2951, 2952, 2953 (42 U.S.C. 5841, 5844, 2297(f)).

Section 73.1 also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 73.37(f) also issued under sec. 301, Pub. L. 96–295, 94 Stat. 789 (42 U.S.C. 5841 note). Section 73.57 is issued under sec. 606, Pub. L. 99–399, 100 Stat. 876 (42 U.S.C. 2169).

4. Section 73.55 is amended by revising paragraph (g)(4) to read as follows:

### § 73.55 Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage.

* * * * *

(g) * * *

(4) The licensee shall review the security program, as necessary, based on an assessment by the licensee against performance indicators, or as soon as reasonably practicable after a significant change occurs in personnel, procedures, equipment, or facilities, but no longer than 12 months after the change. The licensee shall ensure that all program elements are reviewed at least every 24 months by individuals who have no direct responsibility for the implementation of the security program. The security program review must include an audit of security procedures and practices, an evaluation of the effectiveness of the physical protection system, an audit of the physical protection system testing and maintenance program, and an audit of commitments established for response by local law enforcement authorities. The results and recommendations of the security program review, management's findings on whether the security program is currently effective, and any actions taken as a result of recommendations from prior program reviews must be documented in a report to the licensee's plant manager and to corporate management at least one level higher than that having responsibility for the day-to-day plant operation. These reports must be maintained in an auditable form, available for inspection, for a period of 3 years.

* * * * *

5. Appendix C to Part 73, Licensee Safeguards Contingency Plans, is amended by revising the section titled ''Audit and Review'' to read as follows:

Appendix C to Part 73—Licensee Safeguards Contingency Plans.

* * * * *

**Audit and Review**

For nuclear facilities subject to the requirements of § 73.46, the licensee shall provide for a review of the safeguards contingency plan at intervals not to exceed 12 months. For nuclear power reactor licensees subject to the requirements of § 73.55, the licensee shall provide for a review of the safeguards contingency plan, as necessary, based on an assessment by the licensee against performance indicators, or as soon as reasonably practicable after a significant change occurs in personnel, procedures, equipment, or facilities, but no longer than 12 months after the change and shall ensure that all program elements are reviewed at least every 24 months. A licensee subject to either requirement shall ensure that the review of the safeguards contingency plan is by individuals independent of both security program management and personnel who have direct responsibility for implementation of the security program. The review must include an audit of safeguards contingency procedures and practices, and an audit of commitments established for response by local law enforcement authorities.

The licensee shall document the results and the recommendations of the safeguards contingency plan review, management findings on whether the safeguards contingency plan is currently effective, and any actions taken as a result of recommendations from prior reviews in a report to the licensee's plant manager and to corporate management at least one level higher than that having responsibility for the day-to-day plant operation. The report must be maintained in an auditable form, available for inspection for a period of 3 years.

* * * * *

Dated at Rockville, Maryland, this 8th day of July 1997.

For the Nuclear Regulatory Commission.

**Hugh L. Thompson, Jr.,**

*Acting Executive Director for Operations.*

[FR Doc. 97–20191 Filed 7–30–97; 8:45 am]

BILLING CODE 7590–01–P

## FEDERAL ELECTION COMMISSION

## 11 CFR Parts 100 and 114

**[Notice 1997—12]**

## Definition of ''Member'' of a Membership Association

**AGENCY:** Federal Election Commission.

**ACTION:** Advance notice of proposed rulemaking.

**SUMMARY:** The Commission is seeking comments on how to revise its rules governing who is a ''member'' of a

membership association following the decision of the United States Court of Appeals for the District of Columbia Circuit in Chamber of Commerce of the United States v. Federal Election Commission. The Commission is not proposing specific amendments to the rules at this time but is rather attempting to obtain general guidance on the factors to be considered in determining this relationship.

**DATES:** Comments are due on September 2, 1997.

**ADDRESSES:** All comments should be addressed to Susan E. Propper, Assistant General Counsel, and must be submitted in either written or electronic form. Written comments should be sent to the Federal Election Commission, 999 E Street, NW., Washington, DC 20463. Faxed comments should be sent to (202) 219–3923, with printed copy follow-up. Electronic mail comments should be sent to members@fec.gov and should include the full name, electronic mail address and postal service address of the commenter. Additional information on electronic submission is provided below.

**FOR FURTHER INFORMATION CONTACT:** Ms. Susan E. Propper, Assistant General Counsel, or Ms. Rita A. Reimer, Attorney, 999 E Street NW., Washington, DC 20463, (202) 219–3690 or (800) 424–9530.

**SUPPLEMENTARY INFORMATION:** The Federal Election Campaign Act of 1971 as amended (''FECA'' or ''Act'') permits membership associations to solicit contributions from their members for a separate segregated fund (''SSF''), which contributions can be used for federal political purposes. The Act also allows membership associations to communicate with their members on any subject, including communications that include express electoral advocacy. 2 U.S.C. 441b(b)(2)(A), 441b(b)(4)(C). The implementing regulations defining who is a ''member'' of a membership association are found at 11 CFR 100.8(b)(4)(iv) and 11 CFR 114.1(e).

On August 30, 1993, the Commission published the text of revisions to these regulations. 58 FR 45770. The revised rules became effective on November 10, 1993. 58 FR 59640. The rules provide that either a significant financial attachment to the membership association (not merely the payment of dues) or the right to vote directly for all members of the association's highest governing body is sufficient in and of itself to confer membership rights. However, in most instances a combination of regularly-assessed dues and the right to vote directly or indirectly for at least one member of the association's highest governing body is required. The term ''membership association'' includes membership organizations, trade associations, cooperatives, corporations without capital stock, and local, national and international labor organizations that meet the requirements set forth in these rules.

These rules were adopted in response to the Supreme Court's ruling in *Federal Election Commission* v. *National Right to Work Committee* (''*NRWC*''), 459 U.S. 196 (1982), and a series of Advisory Opinions (''AO'') adopted by the Commission following that decision. *NRWC* rejected an argument by a nonprofit, noncapital stock corporation, whose articles of incorporation stated that it had no members, that it should be able to treat as members, and thus solicit funds to its SSF from, individuals who had at one time responded, not necessarily financially, to an NRWC advertisement, mailing, or personal contact. The Supreme Court rejected this definition of ''member,'' saying that to accept it ''would virtually excise from the statute the restriction of solicitation to 'members.'" Id. at 203. The Court determined that ''members'' of nonstock corporations should be defined, at least in part, by analogy to stockholders of business corporations and members of labor unions. Viewing the question from this perspective meant that ''some relatively enduring and independently significant financial or organizational attachment is required to be a 'member'" for these purposes. Id. at 204. The recent revisions to the Commission's rules were intended to incorporate this standard.

The United States District Court for the District of Columbia held that the revised ''member'' rules were not arbitrary, capricious or manifestly contrary to the statutory language, and therefore deferred to what the court found to be a valid exercise of the Commission's regulatory authority. *Chamber of Commerce of the United States (''Chamber'')* v. *Federal Election Commission*, Civil Action No. 94–2184 (D.D.C. Oct. 28, 1994)(1994 WL 615786). However, the United States Court of Appeals for the District of Columbia Circuit reversed. 69 F.3d 600 (D.C.Cir. 1995), *amended on denial of rehearing*, 76 F.3d 1234 (D.C.Cir. 1996).

The case was jointly brought by the Chamber of Commerce and the American Medical Association (''AMA''), two associations that do not provide their asserted ''members'' with the voting rights necessary to confer this status under the current rules. The court held that the ties between these members and the Chamber and the AMA are sufficient to comply with the Supreme Court's *NWRC* criteria, and therefore concluded that the Commission's rules are invalid because they define the term ''member'' in an unduly restrictive fashion. 69 F.2d at 604.

The Chamber is a nonprofit corporation whose members include 3,000 state and local chambers of commerce, 1,250 trade and professional groups, and 215,000 ''direct business members.'' The members pay annual dues ranging from $65 to $100,000 and may participate any of 59 policy committees that determine the Chamber's position on various issues. However, the Chamber's Board of Directors is self-perpetuating (that is, Board members elect their successors); so no member entities have either direct or indirect voting rights for members of the Board.

The AMA challenged the exclusion from the definition of member 44,500 ''direct'' members, those who do not belong to a state medical association. Direct members pay annual dues ranging from $20 to $420; receive various AMA publications; and participate in professional programs put on by the AMA. They are also bound by and subject to discipline under the AMA's Principles of Medical Ethics. However, since state medical associations elect members of the AMA's House of Delegates, that organization's highest governing body, direct members do not satisfy the voting criteria set forth in the current rules.

The *Chamber of Commerce* court, in an Addendum to the original decision, noted that the Commission ''still has a good deal of latitude in interpreting'' the term ''member.'' 76 F.3d at 1235. However, in its original decision, the court held the rules to be arbitrary and capricious (as applied to the Chamber), since under the current rules even those paying $100,000 in annual dues cannot qualify as members. As for the AMA, the rule excludes members who pay up to $420 in annual dues and, among other organizational attachments, are subject to sanctions under the Principles of Medical Ethics. The court explained that this latter attachment ''might be thought, [] for a professional, [to be] the *most* significant organizational attachment.'' 69 F.3d at 605 (emphasis in original).

On February 24, 1997, the Commission received a Petition for Rulemaking from James Bopp, Jr., on behalf of the National Right to Life Committee, Inc. The Petition urged the Commission to revise its rules defining who is a member of a membership

association to reflect the *Chamber of Commerce* decision.

The Commission published a Notice of Availability (''NOA'') in the **Federal Register** on March 29, 1997. 62 FR 13355. The Commission received two comments in response to the NOA.

Other than its comments on the Chamber's and the AMA's member attachments that it found sufficient to comply with the Supreme Court's *NRWC* criteria, the *Chamber of Commerce* court provided little guidance on how the current rules should be revised to comply with this ruling. Both of these associations present specific and somewhat unique circumstances that do not necessarily lend themselves to generalizations applicable to the broader membership association community. Nor did the Petition for Rulemaking suggest alternative language for this purpose.

The Commission has therefore decided to issue an Advance Notice of Proposed Rulemaking (''ANPRM''), seeking general comments on how best to effectuate this decision. After analyzing the comments received in response to the ANPRM, the Commission may issue a Notice of Proposed Rulemaking (''NPRM'') seeking comments on specific regulatory language.

The current rules provide a ''safe harbor'' for membership associations, since those who meet the requirements set forth in these rules clearly enjoy ''member'' status. Associations can also seek advisory opinions pursuant to 2 U.S.C. 437f and 11 CFR part 112 to determine how the rules, as interpreted in the *Chamber of Commerce* decision, apply to their particular situations. This has already been done by certain entities, including the Chicago Mercantile Exchange (''CME'' or the ''Exchange''). *See* discussion of AO 1997–5, *infra*.

The Commission notes that there are three preliminary requirements an entity must meet before it qualifies as a ''membership association'' for purposes of these rules: It must expressly provide for ''members'' in its articles and by-laws; expressly solicit members; and expressly acknowledge the acceptance of membership, such as by sending a membership card or including the member on a membership newsletter list. 11 CFR 100.8(b)(4)(iv)(A), 114.1(e)(1). These requirements were not challenged in the litigation and the Commission does not anticipate that it will propose any changes to this language.

The Chamber of Commerce, in commenting on the NOA, argued that these three requirements should in and of themselves be sufficient to confer membership status. However, it may be that these attachments, standing alone, are insufficient to meet the ''relatively enduring and independently significant financial or organizational attachment'' standard articulated by the *NRWC* Court. (The other comment, from the Internal Revenue Service (''IRS''), stated that a potential rulemaking on this topic would not conflict with the Internal Revenue Code or any IRS regulation.)

In addition to retaining these three preliminary requirements, the Commission believes that the current rules recognizing as members those who have a stronger financial interest in an association than paying dues (for example, the ownership of a stock exchange seat) and those who have the right to vote directly for all members of the association's highest governing body, should likewise be retained for those associations that meet either of these requirements. 11 CFR 100.8(b)(4)(iv)(B) (*1*), (*3*); 114.1(e)(2) (i), (iii). Thus, the Commission is seeking comments on what other attachments, or combination of attachments, should also be sufficient to confer membership status in lieu of current 100.8(b)(4)(iv)(B)(*2*) and 114.1(e)(2)(ii).

One approach would be to establish a certain level of annual dues as in and of itself sufficient for this purpose. Those who paid this amount would be considered members regardless of whether they had organizational attachments to the association. One possibility is that any amount of annual dues set by an association would be a sufficient financial attachment, regardless of amount. Another possibility is a $200 per year cut-off point, since $200 is the amount that Congress has decided is such a significant attachment to a political committee that itemized disclosure is required for what could be considered ''membership'' in a political committee. The Commission welcomes comments on this approach as well as suggestions for what level of annual dues would be appropriate to confer membership status, if this were to be included in the rules.

For a lesser dues obligation, the rules might list other factors the Commission would consider *per se* sufficient to provide the required organizational attachment, provided that some level of dues was also required. These could include such attachments as the voting rights contained in the current rule; the right to serve on policy-making boards and/or vote on policy issues; eligibility to be elected to governing positions in the organization; and whether the member may be subject to disciplinary action by the association. If this approach is adopted, the Commission would like to make this list as comprehensive as possible, so that the large majority of covered entities will be able to quickly determine who qualifies as a member.

On May 16, 1997, the Commission determined in AO 1997–5 that, based on the facts presented, both owners and lessees of seats on the Chicago Mercantile Exchange could be considered ''members'' of the CME for purposes of these rules. The member-owners, by virtue of their ownership stake, qualify as members under 11 CFR 100.8(b)(4)(iv)(B)(*1*) and 114.1(e)(2)(i). In addition, the Commission found, member-lessees have sufficient rights and obligations to also qualify as members. These attachments include substantial financial obligations to the CME, the right to serve on policy-formulating committees, and the possibility of sanctions by the CME that would impact on their professional status. AO 1997–5 overruled AO 1988–39 and 1987–31 (in part), which had concluded that only one membership in the Exchange existed with respect to each leased membership. The Commission is seeking comments on whether to incorporate this result into the regulatory text.

The Commission's rules at 11 CFR 100.8(b)(4)(iv)(B) and 114.1(e)(2) that require both a financial and an organizational attachment for members of most membership associations clearly include two-tiered associations, such as those in which members vote for delegates to a convention, and those delegates elect those who serve on the association's highest governing body. At the time of the 1993 amendment, the Commission explained that multi-tiered associations could solicit across all tiers, as long as the various tiers met the same criteria that govern solicitations by two-tiered associations. *Explanation and Justification for Regulations on the Definition of ''Member'' of a Membership Association,* 58 FR 45770 (1993). In addition, the Commission authorized farm cooperatives as defined in the Agricultural Marketing Act of 1929 (12 U.S.C. 1141j) and those entities eligible for assistance under the Rural Electrical Act of 1936 as amended (7 U.S.C. 901–950aa–1) to solicit across all tiers even though the precise attachments set forth at 11 CFR 100.8(b)(4)(iv)(B) and 114.1(e)(2) might not always be present. 11 CFR 114.7(k)(1). Federations of trade associations had earlier been given this same right, 11 CFR 114.8(g), as had labor organizations, 11 CFR 114.1(e)(4). The *Chamber of Commerce* court, in

discussing the AMA's organizational attachments, cited these exceptions as another basis for its ruling that the AMA should be able to cross-solicit across multiple tiers even where no voting rights were present. 69 F.3d at 606.

If the Commission expands the membership definition, many multi-tiered associations that may not presently qualify for cross-tier solicitation would likely be able to do so. The Commission welcomes comments on whether this should be stated explicitly in the rules, as well as whether the particular circumstances of certain multi-tiered associations might justify different standards.

All comments on this ANPRM should be addressed to Susan E. Propper, Assistant General Counsel, and must be submitted in either written or electronic form. Written comments should be sent to the Commission's postal service address: Federal Election Commission, 999 E Street, NW., Washington, DC 20463. Faxed comments should be sent to (202) 219–3923. Commenters submitting faxed comments should also submit a printed copy to the Commission's postal service address to ensure legibility. Comments may also be sent by electronic mail to members@fec.gov. Commenters sending comments by electronic mail should include their full name, electronic mail address and postal service address within the text of their comments. All comments, regardless of form, must be submitted by September 2, 1997.

The Commission also welcomes comments on any related topic.

Dated: July 25, 1997.

**John Warren McGarry,**

*Chairman, Federal Election Commission.*

[FR Doc. 97–20094 Filed 7–30–97; 8:45 am]

BILLING CODE 6713–01–P

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 97–ANE–13]**

**RIN 2120–AA64**

## Airworthiness Directives; AlliedSignal Inc. TPE331 Series Turboprop and TSE331 Turboshaft Engines

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

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

**SUMMARY:** This document proposes the adoption of a new airworthiness directive (AD) that is applicable to AlliedSignal Inc., (formerly Garrett Engine Division, Garrett Turbine Engine Company and AiResearch Manufacturing Company of Arizona) TPE331 series turboprop and TSE331 turboshaft engines. This proposal would require replacement or radiographic inspection, and replacement , if necessary, of certain third stage turbine stators with serviceable parts. This proposal is prompted by a report of an outer band weld that cracked subsequent to a radiographic inspection required by a previous AD. The actions specified by the proposed AD are intended to prevent third stage turbine wheel separation due to thermal fatigue cracking and shifting of the third stage turbine stator, which could contact the third stage turbine wheel and result in an uncontained engine failure and damage to the aircraft.

**DATES:** Comments must be received by September 29, 1997.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 97–ANE–13, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be sent via the Internet using the following address: ''9-ad-engineprop@faa.dot.gov''. Comments sent via the Internet must contain the docket number in the subject line. Comments may be inspected at this location between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

The service information on AlliedSignal Service Bulletin No. TPE331–A72–0861, Revision 2, dated April 23, 1997, referenced in the proposed rule may be obtained from AlliedSignal Aerospace, Attn: Data Distribution, M/S 64–3/2101–201, P.O. Box 29003, Phoenix, AZ 85038–9003; telephone (602) 365–2493, fax (602) 365–5577. The service information on National Flight Services Service Bulletin No. NF–TPE331–A72–10961, dated April 28, 1997, referenced in the proposed rule may be obtained from either National Flight Services, Inc. 10971 E. Airport Services Road, Toledo Express Airport, Swanton, OH 43558; telephone (419) 865–2311, fax (419) 867–4224, or http://www.natfs.com, or National Flight Services of Arizona, Inc., 5170 W. Bethany Home Road, Glendale, AZ 85301; telephone (602) 931–1143, fax (602) 931–7264. This information may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA.

**FOR FURTHER INFORMATION CONTACT:** Joseph Costa, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA, Transport Airplane Directorate, 3960 Paramount Blvd., Lakewood, CA 90712–4137; telephone (562) 627–5246; fax (562) 627–5210.

**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 summarizing 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 Number 97–ANE–13.'' The postcard will be date stamped and returned to the commenter.

### Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 97–aNE–13, 12 New England Executive Park, Burlington, MA 01803–5299.

### Discussion

The Federal Aviation Administration (FAA) has received a report of a third stage turbine stator outer band weld that cracked on an AlliedSignal Inc. Model TPE331–5 turboprop engine. This weld, removed from service in January 1996 after the crack was discovered during turbine maintenance, had passed a one-time radiographic inspection for unacceptable weld penetration and thermal fatigue cracking required by AD 87–19–02. While AD 87–19–02 was