

# 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 Parts 2 and 171

RIN 3150-AJ14

[NRC-2012-0062]

### Receipts-Based, Small Business Size Standard

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC or the Commission) is proposing to amend the size standard that it uses to qualify an NRC licensee as a “small entity” under the Regulatory Flexibility Act of 1980, as amended. The NRC is proposing to increase its receipts-based, small business size standard from \$6.5 million to \$7 million to conform to the standard set by the Small Business Administration (SBA). This size standard reflects the most commonly used SBA size standard for nonmanufacturing industries. The SBA adjusted this standard on July 18, 2008 (73 FR 41237), to account for inflation.

**DATES:** Submit comments by August 2, 2012. Comments received after this date will be considered if it is practical to do so, but the NRC is able to assure consideration only for comments received on or before this date.

**ADDRESSES:** You may access information and comment submissions related to this proposed rule, which the NRC possesses and are publicly available, by searching on <http://www.regulations.gov> under Docket ID NRC-2012-0062. You may submit comments related to this proposed rule by any of the following methods:

- *Federal rulemaking Web site:* Go to <http://www.regulations.gov> and search for Docket ID NRC-2012-0062. Address questions about NRC dockets to Carol Gallagher; telephone: 301-492-3668; email: [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov).

- *Email comments to:* [Rulemaking.Comments@nrc.gov](mailto:Rulemaking.Comments@nrc.gov). If you do not receive an automatic email reply

confirming receipt, then contact us at 301-415-1677.

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

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

- *Hand deliver comments to:* 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. (Eastern Time) Federal workdays; telephone: 301-415-1677.

For additional direction on accessing information and submitting comments, see “Accessing Information and Submitting Comments” in the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** Theresa Barczy, Regulations Specialist, Rules, Announcements, and Directives Branch, Division of Administrative Services, Office of Administration, telephone: 301-492-3667, email: [Theresa.Barczy@nrc.gov](mailto:Theresa.Barczy@nrc.gov).

#### SUPPLEMENTARY INFORMATION:

#### I. Accessing Information and Submitting Comments

##### A. Accessing Information

Please refer to Docket ID NRC-2012-0062 when contacting the NRC about the availability of information for this proposed rule. You may access information related to this proposed rule, 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-2012-0062.

- *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 “ADAMS Public Documents” and then 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.

##### B. Submitting Comments

Please include Docket ID NRC-2012-0062 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in comment submission. The NRC will post all comment submissions at <http://www.regulations.gov> as well as enter the comment submissions into ADAMS, and the NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

#### II. Procedural Background

Because the NRC considers this action noncontroversial and routine, the NRC is publishing this proposed rule concurrently as a direct final rule in the Rules and Regulations section of this issue of the **Federal Register**. The amendments, which are administrative in nature, include updating the receipts-based, small business size standard from \$6.5 million to \$7.0 million. Adequate protection of public health and safety continues to be ensured. The direct final rule will become effective on August 22, 2012. However, if the NRC receives significant adverse comments on the direct final rule by August 2, 2012, then the NRC will publish a document that withdraws the direct final rule. If the direct final rule is withdrawn, the NRC will address the comments received in response to the proposed revisions in a subsequent final rule. Absent significant modifications to the proposed revisions

requiring republication, the NRC will not initiate a second comment period on this action in the event the direct final rule is withdrawn.

A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. A comment is adverse and significant if:

(1) The comment opposes the rule and provides a reason sufficient to require a substantive response in a notice-and-comment process. For example, a substantive response is required when:

(a) The comment causes the NRC staff to reevaluate (or reconsider) its position or conduct additional analysis;

(b) The comment raises an issue serious enough to warrant a substantive response to clarify or complete the record; or

(c) The comment raises a relevant issue that was not previously addressed or considered by the NRC staff.

(2) The comment proposes a change or an addition to the rule, and it is apparent that the rule would be ineffective or unacceptable without incorporation of the change or addition.

(3) The comment causes the NRC staff to make a change (other than editorial) to the rule.

For additional procedural information, see the direct final rule published in the Rules and Regulations section of this issue of the **Federal Register**.

**List of Subjects**

*10 CFR Part 2*

Administrative practice and procedure, Antitrust, Byproduct material, Classified information, Environmental protection, Nuclear materials, Nuclear power plants and reactors, Penalties, Sex discrimination, Source material, Special nuclear material, Waste treatment and disposal.

*10 CFR Part 171*

Annual charges, Byproduct material, Holders of certificates, registrations, approvals, Intergovernmental relations, Nonpayment penalties, Nuclear

materials, Nuclear power plants and reactors, Source material, Special nuclear material.

For the reasons set forth 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 amendments to 10 CFR parts 2 and 171.

**PART 2—RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS AND ISSUANCE OF ORDERS**

1. The authority citation for part 2 is revised to read as follows:

**Authority:** Atomic Energy Act secs.161, 181, 191 (42 U.S.C. 2201, 2231, 2241); Energy Reorganization Act sec. 201 (42 U.S.C. 5841); FOIA 5 U.S.C. 552; Government Paperwork Elimination Act sec. 1704 (44 U.S.C. 3504 note).

Section 2.101 also issued under Atomic Energy Act secs. 53, 62, 63, 81, 103, 104 (42 U.S.C. 2073, 2092, 2093, 2111, 2133, 2134, 2135); Nuclear Waste Policy Act sec. 114(f) (42 U.S.C. 10143(f)); National Environmental Protection Act sec. 102 (42 U.S.C. 4332); Energy Reorganization Act sec. 301 (42 U.S.C. 5871).

Sections 2.102, 2.103, 2.104, 2.105, 2.321 also issued under Atomic Energy Act secs. 102, 103, 104, 105, 183i, 189 (42 U.S.C. 2132, 2133, 2134, 2135, 2233, 2239). Sections 2.200–2.206 also issued under Atomic Energy Act secs. 161, 186, 234 (42 U.S.C. 2201 (b), (i), (o), 2236, 2282); sec. 206 (42 U.S.C. 5846). Section 2.205(j) also issued under Pub. L. 101–410, as amended by section 3100(s), Pub. L. 104–134 (28 U.S.C. 2461 note).

Subpart C also issued under Atomic Energy Act sec. 189 (42 U.S.C. 2239). Section 2.301 also issued under 5 U.S.C. 554. Sections 2.343, 2.346, 2.712 also issued under 5 U.S.C. 557. Section 2.340 also issued under Nuclear Waste Policy Act secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 2.390 also issued under 5 U.S.C. 552. Sections 2.600–2.606 also issued under sec. 102 (42 U.S.C. 4332). Sections 2.800 and 2.808 also issued under 5 U.S.C. 553. Section 2.809 also issued under 5 U.S.C. 553; AEA sec. 29 (42 U.S.C. 2039). Subpart K also issued under Atomic Energy Act sec. 189 (42 U.S.C. 2239); Nuclear Waste Policy Act sec. 134 (42 U.S.C. 10154). Subpart L also issued under Atomic Energy Act sec. 189 (42 U.S.C. 2239). Subpart M also issued under Atomic Energy Act sec. 184, 189 (42 U.S.C. 2234, 2239). Subpart N also issued under Atomic Energy Act sec. 189 (42 U.S.C. 2239).

**§ 2.810 [Amended]**

2. In § 2.810, paragraphs (a)(1) and (b) are amended by removing “\$6.5” and adding in its place “\$7.0.”

**PART 171—ANNUAL FEES FOR REACTOR LICENSES AND FUEL CYCLE LICENSES AND MATERIALS LICENSES, INCLUDING HOLDERS OF CERTIFICATES OF COMPLIANCE, REGISTRATIONS, AND QUALITY ASSURANCE PROGRAM APPROVALS AND GOVERNMENT AGENCIES LICENSED BY THE NRC**

3. The authority citation for part 171 is revised to read as follows:

**Authority:** Consolidated Omnibus Budget Reconciliation Act sec. 6101 Pub. L. 99–272, as amended by sec. 5601, Pub. L. 100–203, as amended by sec. 3201, Pub. L. 101–239, as amended by sec. 6101, Pub. L. 101–508, as amended by sec. 2903a, Pub. L. 102–486 (42 U.S.C. 2213, 2214), and as amended by Title IV, Pub. L. 109–103 (42 U.S.C. 2214); Atomic Energy Act secs. 161(w), 223, 234 (42 U.S.C. 2201(w), 2273, 2282); Energy Reorganization Act sec. 201 (42 U.S.C. 5841); Government Paperwork Elimination Act sec. 1704 (44 U.S.C. 3504 note); Energy Policy Act of 2005 sec. 651(e), Pub. L. 109–58 (42 U.S.C. 2014, 2021, 2021b, 2111).

4. In § 171.16, paragraph (c) is revised to read as follows:

**§ 171.16 Annual fees: Materials licensees, holders of certificates of compliance, holders of sealed source and device registrations, holders of quality assurance program approvals, and government agencies licensed by the NRC.**

\* \* \* \* \*

(c) A licensee who is required to pay an annual fee under this section may qualify as a small entity. If a licensee qualifies as a small entity and provides the Commission with the proper certification along with its annual fee payment, then the licensee may pay a reduced annual fee as shown in the following table. Failure to file small entity certification in a timely manner could result in the receipt of a delinquent invoice requesting the outstanding balance due and/or denial of any refund that might otherwise be due. The small entity fees are as follows:

	Maximum annual fee per licensed category
Small businesses not engaged in manufacturing (Average gross receipts over last 3 completed fiscal years):	
\$450,000 to \$7.0 million .....	\$2,300
Less than \$450,000 .....	500
Small not-for-profit organizations (Annual gross receipts):	
\$450,000 to \$7.0 million .....	2,300
Less than \$450,000 .....	500
Manufacturing entities that have an average of 500 employees or fewer:	

	Maximum annual fee per licensed category
35 to 500 employees .....	2,300
Fewer than 35 employees .....	500
Small governmental jurisdictions (Including publicly supported educational institutions) (Population):	
20,000 to 50,000 .....	2,300
Fewer than 20,000 .....	500
Educational institutions that are not State or publicly supported, and have 500 employees or fewer:	
35 to 500 employees .....	2,300
Fewer than 35 employees .....	500

\* \* \* \* \*

Dated at Rockville, Maryland, this 20th day of June 2012.

For the Nuclear Regulatory Commission.

**R.W. Borchardt,**

*Executive Director for Operations.*

[FR Doc. 2012-16258 Filed 7-2-12; 8:45 am]

**BILLING CODE 7590-01-P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

[Docket No. FAA-2012-0695; Directorate Identifier 2011-SW-031-AD]

**RIN 2120-AA64**

**Airworthiness Directives; Agusta S.p.A. Helicopters**

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

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

**SUMMARY:** We propose to supersede an existing airworthiness directive (AD) for Agusta S.p.A. (Agusta) Model A119 and AW119 MKII helicopters. The existing AD currently requires inspecting the pilot and copilot engine rotary variable differential transformer (RVDT) control box assemblies to determine if the control gear locking pin is in its proper position. Since we issued that AD, Agusta has developed a terminating action for this inspection. The proposed actions are intended to prevent failure of an RVDT control box assembly, loss of manual control of the engine throttle, and subsequent loss of control of the helicopter.

**DATES:** We must receive comments on this proposed AD by September 4, 2012.

**ADDRESSES:** You may send comments by any of the following methods:

- *Federal eRulemaking Docket:* Go to <http://www.regulations.gov>. Follow the online instructions for sending your comments electronically.
- *Fax:* 202-493-2251.

- *Mail:* Send comments to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590-0001.

- *Hand Delivery:* Deliver to the “Mail” address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

*Examining the AD Docket:* You may examine the AD docket on the Internet at <http://www.regulations.gov> or in person at the Docket Operations Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the economic evaluation, any comments received and other information. The street address for the Docket Operations Office (telephone 800-647-5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

For service information identified in this proposed AD, contact Agusta Westland, Customer Support & Services, Via Per Tornavento 15, 21019 Somma Lombardo (VA) Italy, ATTN: Giovanni Cecchelli; telephone 39 0331711133; fax 39 0331 711180; or at <http://www.agustawestland.com/technical-bulletins>. You may review a copy of the service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

**FOR FURTHER INFORMATION CONTACT:** Jim Grigg, Manager, FAA, Rotorcraft Directorate, Safety Management Group, 2601 Meacham Blvd., Fort Worth, TX 76137, telephone (817) 222-5126, email [jim.grigg@faa.gov](mailto:jim.grigg@faa.gov).

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

We invite you to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments

reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit only one time.

We will file in the docket all comments that we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. We may change this proposal in light of the comments we receive.

**Discussion**

On July 16, 2010, we issued Emergency AD 2010-15-51, and on August 4, 2010, we issued the Final Rule, Request for Comment, for that AD as amendment 39-16397 (75 FR 50863, August 18, 2010) for all Agusta model A119 and AW119 MKII helicopters. That AD requires inspecting the pilot and co-pilot control box assemblies for the proper positioning of the locking pins, and if the locking pin is recessed or extended in excess of 2.0 millimeters from the face of the pin bore, or missing, replacing the control box assembly. That AD was prompted by a report that an RVDT locking pin that was installed on an AW119 MKII helicopter moved from its proper position, resulting in disconnect between the pilot and co-pilot throttle controls.

**Actions Since Existing AD Was Issued**

Since we issued AD 2010-15-51, the European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2011-0095-E, dated May 24, 2011, to permanently correct this unsafe condition for the Agusta A119 and AW