

safety-related functions while wearing a SCBA for several hours.”

- Procedures should be developed to ensure control room purging is considered when the outside concentration is less than the inside concentration. NEI commented, “Although this appears to be a good practice, it can’t be credited in the operator dose analysis. The timing of purging could be critical based on the timing of the release and the release pathway. Therefore, this recommendation may not have any practical merit.”

The petitioner stated that because of the low risk significance of being outside the control room habitability program guidelines, a plant shutdown would not be required in this condition; rather, the program could specify that timely actions should be taken to return the plant within the guidelines. If not complete within 30 days, a special report would be sent to the NRC with a justification for continued operation and a proposed schedule for meeting the guidelines. NEI commented, “This is a valid point that the industry supports.”

The petitioner stated that as an alternative to total removal of dose guidelines from the regulations, most of his concerns could be resolved if the dose criteria were based solely on the whole body dose from noble gases that he believes is the only possible dose impact that may result in control room evacuation. NEI commented, “It is not clear that the noble gas contribution would be limiting in all cases. However, this may be the case if KI were allowed to be credited.”

*Response:* These comments have been addressed in Section III of this document.

## V. Denial of Petition

Based upon review of the petition and comments received, the NRC has determined that the conclusions upon which the petitioner relies do not substantiate a basis to eliminate the control room radiological dose acceptance criteria from current regulations as requested. For the reasons discussed previously, the Commission denies PRM-50-87.

Dated at Rockville, Maryland, this 14th day of January 2009.

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

[FR Doc. E9-1211 Filed 1-23-09; 8:45 am]

BILLING CODE 7590-01-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 25

[Docket No. NM398; Notice No. 25-09-01-SC]

#### Special Conditions: Model C-27J Airplane; Interaction of Systems and Structures

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

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

**SUMMARY:** This action proposes special conditions for the Alenia Model C-27J airplane. This airplane has novel or unusual design features when compared to the state of technology described in the airworthiness standards for transport-category airplanes. These design features include electronic flight-control systems. These special conditions pertain to the effects of novel or unusual design features such as effects on the structural performance of the airplane. We have issued additional special conditions for other novel or unusual design features of the C-27J.

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:** We must receive your comments by February 25, 2009.

**ADDRESSES:** You must mail two copies of your comments to: Federal Aviation Administration, Transport Airplane Directorate, Attn: Rules Docket (ANM-113), Docket No. NM398, 1601 Lind Avenue SW., Renton, Washington 98057-3356. You may deliver two copies to the Transport Airplane Directorate at the above address. You must mark your comments: Docket No. NM398. You can inspect comments in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

**FOR FURTHER INFORMATION CONTACT:** Holly Thorson, FAA, International Branch, ANM-116, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98057-3356; telephone (425) 227-1357, facsimile (425) 227-1149.

**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 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 special conditions. You can inspect the docket 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 preamble 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 these special conditions based on the comments we receive.

If you want the FAA to acknowledge receipt of your comments on this proposal, include with your comments a self-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 27, 2006, the European Aviation Safety Agency (EASA) forwarded to the FAA an application from Alenia Aeronautica of Torino, Italy, for U.S. type certification of a twin-engine commercial transport designated as the Model C-27J. The C-27J is a twin-turbopropeller, cargo-transport aircraft with a maximum takeoff weight of 30,500 kilograms.

### Type Certification Basis

Under the provisions of Section 21.17 of Title 14 Code of Federal Regulations (14 CFR) and the bilateral agreement between the U.S. and Italy, Alenia Aeronautica must show that the C-27J meets the applicable provisions of 14 CFR part 25, as amended by Amendments 25-1 through 25-87. Alenia also elects to comply with Amendment 25-122, effective September 5, 2007, for 14 CFR 25.1317.

If the Administrator finds that existing airworthiness regulations do not adequately or appropriately address safety standards for the C-27J due to a novel or unusual design feature, we prescribe special conditions under provisions of 14 CFR 21.16.

In addition to the applicable airworthiness regulations and special conditions, the C-27J 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 pursuant to § 611 of Public Law 92-574, the "Noise Control Act of 1972."

The FAA issues special conditions, under §§ 11.19 and 11.38, and they become part of the type-certification basis under § 21.17(a)(2).

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 also apply to the other model under § 21.101.

### Novel or Unusual Design Features

The C-27J incorporates several novel or unusual design features. Because of rapid improvements in airplane technology, the existing airworthiness regulations do not adequately or appropriately address safety standards for these design features. This proposed special condition for the C-27J contains the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

This special condition was derived initially from standardized requirements developed by the Aviation Rulemaking Advisory Committee (ARAC), comprised of representatives of the FAA, Europe's Joint Aviation Authorities (JAA, now replaced by the European Aviation Safety Agency (EASA)), and industry. From the initial proposal, the JAA proposed this special condition in Notice of Proposed Amendment (NPA) 25C-199. When Ente Nazionale per l'Aviazione Civile (ENAC) certified the C-27J they applied NPA 25C-199, issued July 3, 1997.

### Discussion

The Alenia C-27J is equipped with systems that affect the airplane's structural performance, either directly or as a result of failure or malfunction. That is, the airplane's systems affect how it responds in maneuver and gust conditions, and thereby affect its structural capability. These systems may also affect the aeroelastic stability of the airplane. Such systems represent a novel and unusual feature when compared to the technology described in the current airworthiness standards. A special condition is needed to require

consideration of the effects of systems on the structural capability and aeroelastic stability of the airplane, in both the normal and the failed states.

This special condition requires that the airplane meet the structural requirements of subparts C and D of 14 CFR part 25 when the airplane systems are fully operative. The special condition also requires that the airplane meet these requirements taking into consideration failure conditions. In some cases, reduced margins are allowed for failure conditions based on system reliability.

### Applicability

As discussed above, these proposed special conditions are applicable to the C-27J. Should Alenia apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design features, these proposed special conditions apply to that model as well under the provisions of Sec. 21.101.

### Conclusion

This action affects only certain novel or unusual design features of the Alenia C-27J. It is not a rule of general applicability, and it affects only the applicant that applied to the FAA for approval of these features on the airplane.

### List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

### The Proposed Special Conditions

Accordingly, the Administrator of the Federal Aviation Administration (FAA) proposes the following special conditions as part of the type-certification basis for the C-27J.

#### 1. General

(a) The C-27J is equipped with systems that affect the airplane's structural performance either directly or as a result of failure or malfunction. The influence of these systems and their failure conditions must be taken into account when showing compliance with requirements of subparts C and D of part 25 of Title 14 of the Code of Federal Regulations (CFR). The following criteria must be used for showing compliance with this proposed special condition for airplanes equipped with flight control systems, autopilots, stability-augmentation systems, load-alleviation systems, flutter-control systems, fuel-management systems, and

other systems that either directly, or as a result of failure or malfunction, affect structural performance. If this proposed special condition is used for other systems, it may be necessary to adapt the criteria to the specific system.

(b) The criteria defined here address only the direct structural consequences of the system responses and performances, and cannot be considered in isolation, but should be included in the overall safety evaluation of the airplane. These criteria may, in some instances, duplicate standards already established for this evaluation. These criteria are only applicable to structure the failure of which could prevent continued safe flight and landing. Specific criteria that define acceptable limits on handling characteristics or stability requirements, when operating in the system-degraded or inoperative mode, are not provided in this special condition.

(c) Depending upon the specific characteristics of the airplane, additional studies may be required, that go beyond the criteria provided in this special condition, to demonstrate the capability of the airplane to meet other realistic conditions, such as alternative gust or maneuver descriptions, for an airplane equipped with a load-alleviation system.

(d) The following definitions are applicable to this special condition.

#### *Structural performance:*

Capability of the airplane to meet the structural requirements of 14 CFR part 25.

#### *Flight limitations:*

Limitations that can be applied to the airplane flight conditions following an in-flight occurrence, and that are included in the flight manual (e.g., speed limitations, avoidance of severe weather conditions, etc.).

#### *Operational limitations:*

Limitations, including flight limitations, that can be applied to the airplane operating conditions before dispatch (e.g., fuel, payload, and Master Minimum Equipment List limitations).

#### *Probabilistic terms:*

The probabilistic terms (probable, improbable, extremely improbable) used in this special condition are the same as those used in § 25.1309.

#### *Failure condition:*

The term "failure condition" here is the same as that used in § 25.1309. However, this appendix applies only to system-failure conditions that affect the structural performance of the airplane (e.g., system-failure conditions that induce loads, change the response of the airplane to variables such as gusts or pilot actions, or reduce flutter margins).

## 2. Effects of Systems on Structures

(a) General. The following criteria determine the influence of a system and its failure conditions on the airplane structure.

(b) System fully operative. With the system fully operative, the following apply:

(1) Limit loads must be derived in all normal operating configurations of the system from all the limit conditions specified in Subpart C, taking into account any special behavior of such a system or associated functions, or any effect on the structural performance of the airplane that may occur up to the limit loads. In particular, any significant nonlinearity (rate of displacement of control surface, thresholds, or any other system nonlinearities) must be

accounted for in a realistic or conservative way when deriving limit loads from limit conditions.

(2) The airplane must meet the strength requirements of 14 CFR part 25 (static strength, residual strength) using the specified factors to derive ultimate loads from the limit loads defined above. The effect of nonlinearities must be investigated beyond limit conditions to ensure the behavior of the system presents no anomaly compared to the behavior below limit conditions. However, conditions beyond limit conditions need not be considered when it can be shown that the airplane has design features that will not allow it to exceed those limit conditions.

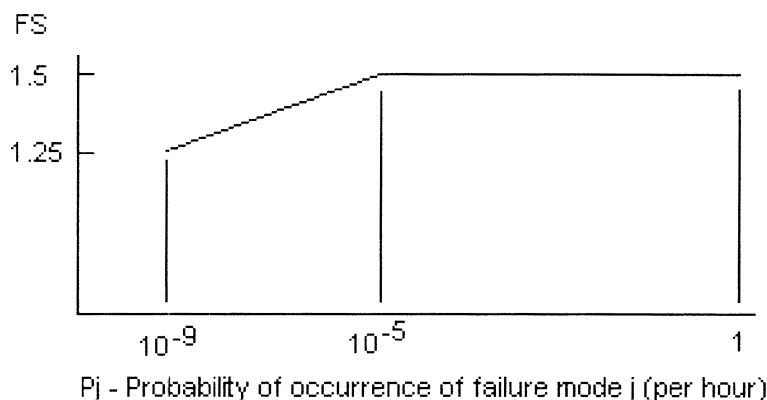
(3) The airplane must meet the aeroelastic-stability requirements of § 25.629.

(c) System in the failure condition. For any system-failure condition not shown to be extremely improbable, the following apply:

(1) At the time of occurrence. Starting from 1-g level-flight conditions, a realistic scenario, including pilot corrective actions, must be established to determine the loads occurring at the time of failure and immediately after failure.

(i) For static-strength substantiation, these loads, multiplied by an appropriate factor of safety that is related to the probability of occurrence of the failure, are ultimate loads to be considered for design. The factor of safety (F.S.) is defined in Figure 1.

Figure 1  
Factor of safety at the time of occurrence



(ii) For residual-strength substantiation, the airplane must be able to withstand two-thirds of the ultimate loads defined in subparagraph (c)(1)(i).

(iii) Freedom from aeroelastic instability must be shown up to the speeds defined in § 25.629(b)(2). For failure conditions that result in speed increases beyond  $V_C/M_C$ , freedom from aeroelastic instability must be shown to increased speeds, so that the margins intended by § 25.629(b)(2) are maintained.

(iv) Failures of the system that result in forced structural vibrations (oscillatory failures) must not produce

loads that could result in detrimental deformation of primary structure.

(2) For the continuation of the flight. For the airplane in the system-failed state, and considering any appropriate reconfiguration and flight limitations, the following apply:

(i) The loads derived from the following conditions at speeds up to  $V_C/M_C$ , or the speed limitation prescribed for the remainder of the flight, must be determined:

(A) The limit-symmetrical-maneuvering conditions specified in § 25.331 and in § 25.345.

(B) The limit-gust-and-turbulence conditions specified in § 25.341 and in § 25.345.

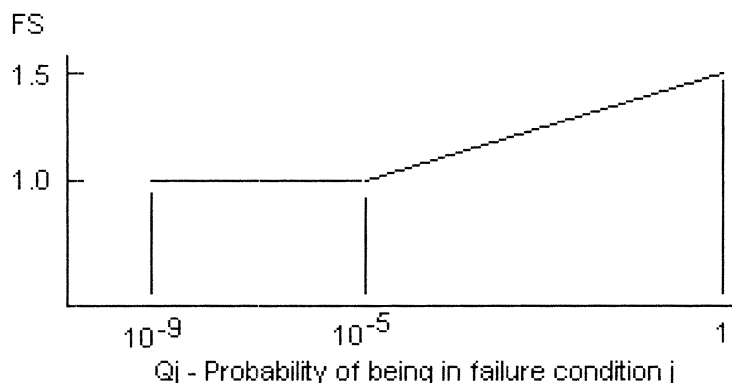
(C) The limit-rolling conditions specified in § 25.349, and the limit-unsymmetrical conditions specified in § 25.367 and § 25.427(b) and (c).

(D) The limit-yaw-maneuvering conditions specified in § 25.351.

(E) The limit-ground-loading conditions specified in § 25.473 and § 25.491.

(ii) For static-strength substantiation, each part of the structure must be able to withstand the loads in subparagraph (2)(i) of this paragraph, multiplied by a factor of safety depending on the probability of being in this failure state. The factor of safety is defined in Figure 2.

Figure 2  
Factor of safety for continuation of flight



$$Q_j = (T_j)(P_j)$$

Where:

$T_j$  = Average time spent in failure condition  $j$  (in hours)

$P_j$  = Probability of occurrence of failure mode  $j$  (per hour)

**Note:** If  $P_j$  is greater than  $10^{-3}$  per flight hour, then a 1.5 factor of safety must be

applied to all limit-load conditions specified in Subpart C.

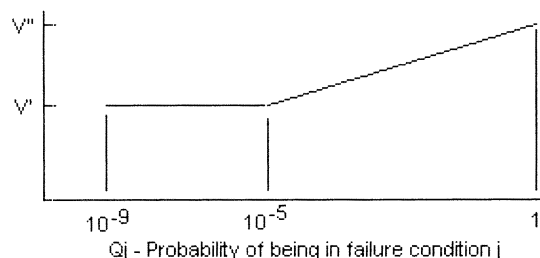
(iii) For residual-strength substantiation, the airplane must be able to withstand two-thirds of the ultimate loads defined in subparagraph (c)(2)(ii).

(iv) If the loads induced by the failure condition have a significant effect on

fatigue or damage tolerance, then their effects must be taken into account.

(v) Freedom from aeroelastic instability must be shown up to a speed determined from Figure 3. Flutter-clearance speeds  $V'$  and  $V''$  may be based on the speed limitation specified for the remainder of the flight using the margins defined by § 25.629(b).

Figure 3  
Clearance speed



$V'$  = Clearance speed as defined by § 25.629(b)(2).

$V''$  = Clearance speed as defined by § 25.629(b)(1).

Where:

$$Q_j = (T_j)(P_j)$$

$T_j$  = Average time spent in failure condition  $j$  (in hours)

$P_j$  = Probability of occurrence of failure mode  $j$  (per hour)

**Note:** If  $P_j$  is greater than  $10^{-3}$  per flight hour, then the flutter clearance speed must not be less than  $V''$ .

(vi) Freedom from aeroelastic instability must also be shown, up to  $V'$  in Figure 3 above, for any probable system-failure condition combined with any damage required or selected for investigation by § 25.571(b).

(3) Consideration of certain failure conditions may be required by other subparts of part 25 regardless of

calculated system reliability. Where analysis shows the probability of these failure conditions to be less than  $10^{-9}$ , criteria other than those specified in this paragraph may be used for structural substantiation to show continued safe flight and landing.

(d) Failure indications. For system-failure detection and indication, the following apply:

(1) The system must be checked for failure conditions, not extremely improbable, that degrade the structural capability below the level required by part 25, or that significantly reduce the reliability of the remaining system. To the extent practicable, these failures must be detected and annunciated to the flight crew before flight. Certain elements of the control system, such as mechanical and hydraulic components, may use special periodic inspections,

and electronic components may use daily checks, in lieu of warning systems, to achieve the objective of this requirement. These certification-maintenance requirements must be limited to components that are not readily detectable by normal warning systems, and where service history shows that inspections provide an adequate level of safety.

(2) The existence of any failure condition, not extremely improbable, during flight, that could significantly affect the structural capability of the airplane and for which the associated reduction in airworthiness can be minimized by suitable flight limitations, must be signaled to the flight crew. Failure conditions that result in a factor of safety between the airplane strength and the loads of Subpart C below 1.25,

or flutter margins below V", must be signaled to the crew during flight.

(e) Dispatch with known failure conditions. If the airplane is to be dispatched in a known system-failure condition that affects structural performance, or affects the reliability of the remaining system to maintain structural performance, then the provisions of § 25.302 must be met for the dispatched condition and for subsequent failures. Flight limitations and expected operational limitations may be taken into account in establishing Q; as the combined probability of being in the dispatched failure condition and the subsequent failure condition for the safety margins in Figures 2 and 3. These limitations must be such that the probability of being in this combined failure state, and then subsequently encountering limit-load conditions, is extremely improbable. No reduction in these safety margins is allowed if the subsequent system-failure rate is greater than  $10^{-3}$  per hour.

Issued in Renton, Washington, on December 31, 2008.

**Linda Navarro,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. E9-1327 Filed 1-23-09; 8:45 am]

BILLING CODE 4910-13-P

## SECURITIES AND EXCHANGE COMMISSION

### 17 CFR Chapter II

[Release Nos. 33-9000, 34-59248, 39-2460, IC-28600, IA-2830; File No. S7-03-09]

### List of Rules To Be Reviewed Pursuant to the Regulatory Flexibility Act

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Publication of list of rules scheduled for review.

**SUMMARY:** The Securities and Exchange Commission is today publishing a list of rules to be reviewed pursuant to Section 610 of the Regulatory Flexibility Act. The list is published to provide the public with notice that these rules are scheduled for review by the agency and to invite public comment on them.

**DATES:** Comments should be submitted by February 25, 2009.

**ADDRESSES:** Comments may be submitted by any of the following methods:

#### Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/other.shtml>); or

- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number S7-03-09 on the subject line; or

- Use the Federal eRulemaking Portal (<http://www.regulations.gov>). Follow the instructions for submitting comments.

#### Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File No. S7-03-09. This file number should be included on the subject line if e-mail is used. To help us process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/other.shtml>). Comments also are available for public inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549 on official business days between the hours of 10 a.m. and 3 p.m. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

#### FOR FURTHER INFORMATION CONTACT:

Anne Sullivan, Office of the General Counsel, 202-551-5019.

**SUPPLEMENTARY INFORMATION:** The Regulatory Flexibility Act ("RFA"), codified at 5 U.S.C. 600-611, requires an agency to review its rules that have a significant economic impact upon a substantial number of small entities within ten years of the publication of such rules as final rules. 5 U.S.C. 610(a). The purpose of the review is "to determine whether such rules should be continued without change, or should be amended or rescinded \* \* \* to minimize any significant economic impact of the rules upon a substantial number of such small entities." 5 U.S.C. 610(a).

The RFA sets forth specific considerations that must be addressed in the review of each rule:

- The continued need for the rule;
- The nature of complaints or comments received concerning the rule from the public;
- The complexity of the rule;
- The extent to which the rule overlaps, duplicates or conflicts with other federal rules, and, to the extent feasible, with state and local governmental rules; and
- The length of time since the rule has been evaluated or the degree to

which technology, economic conditions, or other factors have changed in the area affected by the rule. (5 U.S.C. 610(c)).

The Securities and Exchange Commission, as a matter of policy, reviews all final rules that it published for notice and comment to assess not only their continued compliance with the RFA, but also to assess generally their continued utility.<sup>1</sup> The list below is therefore broader than that required by the RFA, and may include rules that do not have a substantial impact on a significant number of small entities. Where the Commission has previously made a determination of a rule's impact on small businesses, the determination is noted on the list. The Commission particularly solicits public comment on whether the rules listed below affect small businesses in new or different ways than when they were first adopted.

The rules and forms listed below are scheduled for review by staff of the Commission during the next twelve months. The list includes rules from 1998, 1997, 1996 and 1995. The rules are grouped according to which Division or Office of the Commission recommended their adoption.

#### Division of Corporation Finance

*Title:* Plain English Disclosure.

*Citation:* 17 CFR 230.421, 17 CFR 230.481.

*Authority:* 15 U.S.C. 77a *et seq.*

*Description:* This rule requires that issuers write the cover page, summary and risk factors sections of prospectuses in plain English.

*Prior Commission Determination Under 5 U.S.C. 601:* A Final Regulatory Flexibility Analysis was prepared in accordance with 5 U.S.C. 604 in conjunction with the adoption of Release No. 33-7497, which was approved by the Commission on January 28, 1998, which amended Rules 421 and 481. Comments to the proposing release and Initial Regulatory Flexibility Analysis were considered at that time.

\* \* \* \* \*

*Title:* Regulation S.

*Citation:* 17 CFR 230.900-905.

*Authority:* 15 U.S.C. 77a *et seq.*

*Description:* This rule provides a safe harbor from the term "offer" for certain offshore communications made by a registrant.

*Prior Commission Determination Under 5 U.S.C. 601:* A Final Regulatory Flexibility Analysis was prepared in

<sup>1</sup> When the Commission implemented the Act in 1980, it stated that it "intend[ed] to conduct a broader review [than that required by the RFA], with a view to identifying those rules in need of modification or even rescission." Securities Act Release No. 6302 (Mar. 20, 1981), 46 FR 19251 (Mar. 30, 1981).