issued by the Small Business Administration at 13 CFR part 121.

Backfit Analysis

The NRC has determined that the backfit rule (10 CFR 50.109 or 10 CFR 72.62) does not apply to this direct final rule because this amendment does not involve any provisions that would impose backfits as defined. Therefore, a backfit analysis is not required.

Small Business Regulatory Enforcement Fairness Act

In accordance with the Small Business Regulatory Enforcement Fairness Act of 1996, the NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs, Office of Management and Budget.

List of Subjects in 10 CFR Part 72

Administrative practice and procedure, Criminal penalties, Manpower training programs, Nuclear materials, Occupational safety and health, Penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Spent fuel, Whistleblowing.

■ For the reasons set out 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. 552 and 553; the NRC is adopting the following amendments to 10 CFR part 72.

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL, HIGH-LEVEL RADIOACTIVE WASTE, AND REACTOR-RELATED WASTE GREATER THAN CLASS C WASTE

■ 1. The authority citation for part 72 continues to read as follows:

Authority: Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102–486, sec. 7902, 106 Stat. 3123 (42 U.S.C. 5851); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332); secs. 131, 132, 133, 135, 137, 141, Pub. L. 97–425, 96 Stat. 2229, 2230, 2232, 2241, sec. 148, Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168).

Section 72.44(g) also issued under secs. 142(b) and 148(c), (d), Pub. L. 100–203, 101 Stat. 1330–232, 1330–236 (42 U.S.C. 10162(b), 10168(c),(d)). Section 72.46 also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Section 72.96(d) also issued under sec. 145(g), Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10165(g)). Subpart J also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Pub. L. 97–425, 96 Stat. 2202, 2203, 2204, 2222, 2244 (42 U.S.C. 10101, 10137(a), 10161(h)). Subparts K and L are also issued under sec. 133, 98 Stat. 2230 (42 U.S.C. 10153) and sec. 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

■ 2. In § 72.214, Certificate of Compliance 1004 is revised to read as follows:

§ 72.214 List of approved spent fuel storage casks.

* * * * *

Certificate Number: 1004.

Initial Certificate Effective Date: January 23, 1995.

Amendment Number 1 Effective Date: April 27, 2000.

Amendment Number 2 Effective Date: September 5, 2000.

Amendment Number 3 Effective Date: September 12, 2001.

Amendment Number 4 Effective Date: February 12, 2002.

Amendment Number 5 Effective Date: [Reserved].

Amendment Number 6 Effective Date: December 22, 2003.

Amendment Number 7 Effective Date: March 2, 2004.

SAR Submitted by: Transnuclear, Inc.

SAR Title: Final Safety Analysis Report for the Standardized NUHOMS® Horizontal Modular Storage System for Irradiated Nuclear Fuel.

Docket Number: 72–1004.

Certificate Expiration Date: January 23, 2015.

Model Number: Standardized NUHOMS®–24P, NUHOMS® –52B, NUHOMS®–61BT, NUHOMS®–32PT, and NUHOMS® –24PHB.

* * * * *

Dated at Rockville, Maryland, this 19th day of November, 2003.

For the Nuclear Regulatory Commission.

William F. Kane,

Acting Executive Director for Operations.

[FR Doc. 03–31207 Filed 12–17–03; 8:45 am]

BILLING CODE 7590–01–P

FEDERAL ELECTION COMMISSION

11 CFR Parts 4 and 111

[Notice 2003–25]

Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files

AGENCY: Federal Election Commission.

ACTION: Statement of policy.

SUMMARY: The Commission is adopting an interim policy with respect to placing closed files on the public record in enforcement, administrative fines, and alternative dispute resolution cases. The categories of records that will be included in the public record are described below. This is an interim policy only; the Commission will conduct a rulemaking in this respect, with full opportunity for public comment, in 2004.

EFFECTIVE DATE: January 1, 2004.

FOR FURTHER INFORMATION CONTACT: Vincent J. Convery, Jr., Assistant General Counsel, 999 E Street, NW., Washington, DC 20463, 202–694–1650 or 1–800–424–9530.

SUPPLEMENTARY INFORMATION: The ''confidentiality provision'' of the Federal Election Campaign Act, 2 U.S.C. 431 *et seq.*, (FECA), provides that: ''Any notification or investigation under [Section 437g] shall not be made public by the Commission * * * without the written consent of the person receiving such notification or the person with respect to whom such investigation is made.'' 2 U.S.C. 437g(a)(12)(A). For approximately the first twenty-five years of its existence, the Commission viewed the confidentiality requirement as ending with the termination of a case. The Commission placed on its public record the documents that had been considered by the Commissioners in their determination of a case, minus those materials exempt from disclosure under the FECA or under the Freedom of Information Act, 5 U.S.C. 552, (FOIA). *See* 11 CFR 5.4(a)(4). In *AFL–CIO* v. *FEC*, 177 F.Supp.2d 48 (D.D.C. 2001), the district court disagreed with the Commission's interpretation of the confidentiality provision and found that the protection of section 437g(a)(12)(A) does not lapse at the time the Commission terminates an investigation. 177 F.Supp.2d at 56.

Following that district court decision, the Commission placed on the public record only those documents that reflected the agency's ''final determination'' with respect to enforcement matters. Such disclosure is required under section 437g(a)(4)(B)(ii) of the FECA and section (a)(2)(A) of the FOIA. In all cases, the final determination is evidenced by a certification of Commission vote. The Commission also continued to disclose documents that explained the basis for the final determination. Depending upon the nature of the case, those documents consisted of General Counsel's Reports (frequently in redacted form); Probable Cause to Believe Briefs; conciliation agreements;

Statements of Reasons issued by one or more of the Commissioners; or, a combination of the foregoing. The district court indicated that the Commission was free to release these categories of documents. *See* 177 F.Supp.2d at 54 n.11. In administrative fines cases, the Commission began placing on the public record only the Final Determination Recommendation and certification of vote on final determination. In alternative dispute resolution cases, the public record consisted of the certification of vote and the negotiated agreement.

Although it affirmed the judgment of the district court in *AFL–CIO*, the Court of Appeals for the District of Columbia Circuit differed with the lower court's restrictive interpretation of the confidentiality provision of 2 U.S.C. 437g(a)(12)(A). The Court of Appeals stated that: ''the Commission may well be correct that * * * Congress merely intended to prevent disclosure of the fact that an investigation is pending,'' and that: ''deterring future violations and promoting Commission accountability may well justify releasing more information than the minimum disclosures required by section 437g(a).'' *See AFL–CIO* v. *FEC*, 333 F.3d 168 (D.C. Cir. 2003) at 174, 179. However, the Court of Appeals warned that, in releasing enforcement information to the public, the Commission must ''attempt to avoid unnecessarily infringing on First Amendment interests where it regularly subpoenas materials of a 'delicate nature * * * represent[ing] the very heart of the organism which the first amendment was intended to nurture and protect.' '' *Id*. at 179. (Citation omitted). The decision suggested that, with respect to materials of this nature, a ''balancing'' of competing interests is required—on one hand, consideration of the Commission's interest in promoting its own accountability and in deterring future violations and, on the other, consideration of the respondent's interest in the privacy of association and belief guaranteed by the First Amendment. Noting that the Commission had failed to tailor its disclosure policy to avoid unnecessarily burdening the First Amendment rights of the political organizations it investigates, *id*. at 178, the Court found the agency's disclosure regulation at 11 CFR 5.4(a)(4) to be impermissible. *Id*. at 179.

The Commission is issuing this interim policy statement to identify several categories of documents integral to its decisionmaking process that will be disclosed upon termination of an enforcement matter. The categories of documents that the Commission intends to disclose either do not implicate the Court's concerns, *e.g.*, categories 8, 9 and 10, or, because they play a critical role in the resolution of a matter, the balance tilts decidedly in favor of public disclosure, even if the documents reveal some confidential information.

With respect to enforcement matters, the Commission will place the following categories of documents on the public record:

1. Complaint or internal agency referral;
2. Response to complaint;
3. General Counsel's Reports that recommend dismissal, reason to believe, no reason to believe, no action at this time, probable cause to believe, no probable cause to believe, no further action, or acceptance of a conciliation agreement;
4. Notification of reason to believe findings (including Factual and Legal Analysis);
5. Respondent's response to reason to believe findings;
6. Briefs (General Counsel's Brief and Respondent's Brief);
7. Statements of Reasons;
8. Conciliation Agreements;
9. Evidence of payment of civil penalty or of disgorgement; and
10. Certifications of Commission votes.

In addition, the Commission will make certain other documents available which will assist the public in understanding the record without intruding upon the associational interests of the respondents. These are:

1. Designations of counsel;
2. Requests for extensions of time;
3. Responses to requests for extensions of time; and
4. Closeout letters.

The Commission is placing the foregoing categories of documents on the public record in all matters it closes on or after January 1, 2004.

The Commission is not placing on the public record certain other materials from its investigative files, such as subpoenaed records, deposition transcripts, and other records produced in discovery, even if those evidentiary documents are referenced in, or attached to, documents specifically subject to release under this interim practice. Release of these underlying evidentiary documents may require a closer balancing of the competing interests cited by the D.C. Circuit. Accordingly, the Commission will consider the appropriateness of disclosing these materials only after a full rulemaking with the opportunity for public comment. However, if a document or record is referenced in, or attached to, a document specifically subject to release under this interim practice, that document or record will be disclosed if it is, or was, otherwise publicly available.

The Commission will place documents on the public record in all cases that are closed, regardless of the outcome. By doing so, the Commission complies with the requirements of 2 U.S.C. 437g(a)(4)(B)(ii) and 5 U.S.C. 552(a)(2)(A). Conciliation Agreements are placed on the public record pursuant to 2 U.S.C. 437g(a)(4)(B)(ii).

The Commission will place these documents on the public record as soon as practicable, and will endeavor to do so within thirty days of the date on which notifications are sent to complainant and respondent. *See* 11 CFR 111.20(a). In the event a Statement of Reasons is required, but has not been issued before the date proposed for the release the remainder of the documents in a matter, those documents will be placed on the public record and the Statement of Reasons will be added to the file when issued.

With respect to administrative fines cases, the Commission will place the entire administrative file on the public record, which includes the following:

1. Reason to Believe recommendation;
2. Respondent's response;
3. Reviewing Officer's memoranda to the Commission;
4. Final Determination recommendation;
5. Certifications of Commission votes;
6. Statements of Reasons;
7. Evidence of payment of fine; and
8. Referral to Department of the Treasury.

With respect to alternative dispute resolution (ADR) cases, the Commission will place the following categories of documents on the public record:

1. Complaint or internal agency referral;
2. Response to complaint;
3. ADR Office's case analysis report to the Commission;
4. Notification to respondent that case has been assigned to ADR;
5. Letter or Commitment Form from respondent participating in the ADR program;
6. ADR Office recommendation as to settlement;
7. Certifications of Commission votes;
8. Negotiated settlement agreement; and
9. Evidence of compliance with terms of settlement.

When disclosing documents in administrative fines and alternative dispute resolution cases, the Commission will release publicly available records that are referenced in,

or attached to, documents specifically subject to release under this interim practice.

With this interim policy, the Commission intends to provide guidance to outside counsel, the news media, and others seeking to understand the Commission's disposition of enforcement, administrative fines, and alternative dispute resolution cases and, thus, to enhance their ability to assess particular matters in light of past decisions. In all matters, the Commission will continue to redact information that is exempt from disclosure under the FECA and the FOIA.

As discussed above, the Commission hereby is announcing an interim policy. A rulemaking, with full opportunity for public comment, will be initiated in 2004.

Dated: December 12, 2003.

Ellen L. Weintraub,

Chair, Federal Election Commission.

[FR Doc. 03–31241 Filed 12–17–03; 8:45 am]

BILLING CODE 6715–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–266–AD; Amendment 39–13388; AD 2003–25–05]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model DHC–8–102, –103, –106, –201, –202, –301, –311, and –315 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Bombardier DHC–8–102, –103, –106, –201, –202, –301, –311, and –315 airplanes, that currently requires inspections to detect breakage in the struts of the rear mount strut assemblies on the left and right engine nacelles, and replacement of any broken struts. The existing AD also requires eventual replacement of all currently installed struts with new and/or reworked struts, as terminating action for the inspections. The amendment requires new repetitive inspections of the strut assemblies for cracking of struts replaced per the existing AD, and replacement of any cracked strut with a new, machined strut. The amendment also changes the applicability of the existing AD by adding certain airplanes and removing certain other airplanes, and includes an optional terminating action for the repetitive inspections. The actions specified by this AD are intended to prevent failure of the engine rear mount struts, which could result in reduced structural integrity of the nacelle and engine support structure. This action is intended to address the identified unsafe conditions.

DATES: Effective January 22, 2004.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 22, 2004.

ADDRESSES: The service information referenced in this AD may be obtained from Bombardier, Inc., Bombardier Regional Aircraft Division, 123 Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Jon Hjelm, Aerospace Engineer, Airframe Branch, ANE–171, FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256–7523; fax (516) 568–2716.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 94–04–09, amendment 39–8829 (59 FR 8393, February 22, 1994), which is applicable to certain Bombardier Model DHC–8–100 and DHC–8–300 airplanes, was published in the **Federal Register** on October 9, 2003 (68 FR 58283). The action proposed to require new repetitive inspections of the strut assemblies for cracking of struts replaced per the existing AD, and replacement of any cracked strut with a new, machined strut. The action also proposed to change the applicability of the existing AD by adding certain airplanes and removing certain other airplanes, and proposed to include an optional terminating action for the repetitive inspections.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

There are approximately 192 airplanes of U.S. registry that will be affected by this AD.

The actions that are currently required by AD 94–04–09 take approximately 16 work hours per airplane to accomplish, at an average labor rate of $65 per work hour. Required parts are provided by the manufacturer at no cost to the operators. Based on these figures, the cost impact of the currently required actions is estimated to be $1,040 per airplane.

The new detailed inspection that is required in this AD action takes approximately 1 work hour per airplane to accomplish, at an average labor rate of $65 per work hour. Based on these figures, the cost impact of the required inspection on U.S. operators is estimated to be $12,480, or $65 per airplane, per inspection cycle.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

The optional terminating action, if done, will take approximately 16 work hours per strut to accomplish, at an average labor rate of $65 per work hour. Required parts will cost aproxiamately $800 per strut. Based on these figures, the cost impact of the optional terminating action is estimated to be $1,840 per strut, per airplane.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under