

ventilation damper, close this damper during testing. Requirements for maintaining temperature levels in the controlled-temperature air space outside the test compartments of a balanced ambient test chamber, as described in ASHRAE Standard 16–69, are waived for all standby and off mode testing. If the standby and off mode testing is conducted in a facility without separate compartments, maintain the ambient temperature at  $74 \pm 2$  °F for testing all modes. Air velocities near the room air conditioner shall be no more than 100 feet per minute. The ambient air temperature variation from minimum to maximum shall be no more than 3 °F at locations within 12 inches of all sides of the room air conditioner at elevations from the bottom edge to the top edge of the air conditioner.

**3.2.2 Power supply.** Maintain power supply conditions specified in section 4.3 of IEC 62301. Use room air conditioner nameplate voltage and frequency as the basis for power supply conditions. Maintain power supply voltage waveform according to the requirements of section 4.4 of IEC 62301.

**3.2.3 Watt meter.** The watt meter used to measure standby mode and off mode power consumption of the room air conditioner shall have the resolution specified in Section 4, Paragraph 4.5 of IEC 62301. The watt meter shall also be able to record a “true” average power specified in Section 5, Paragraph 5.3.2(a) of IEC 62301.

**3.2.4** Install the room air conditioner in the test facility either as required by ASHRAE Standard 16–69, if standby and off mode testing is conducted in a facility that is also used for testing the cooling mode, or, if standby and off mode testing is conducted in a facility without separate compartments, place the room air conditioner in the facility with a minimum of 2 feet of clearance to any walls or obstructions.

#### 4. Measurements.

**4.1 Cooling mode.** Measure the quantities delineated in Section 5 of ANSI Z234.1–1972.

**4.2 Standby and off modes.** Establish the testing conditions set forth in Section 3.2. For room air conditioners that drop from a higher power state to a lower power state as discussed in Section 5, Paragraph 5.1, note 1 of IEC 62301, allow sufficient time for the room air conditioner to reach the lower power state before proceeding with the test measurement. Follow the test procedure specified in Section 5, Paragraph 5.3 of IEC 62301. For units in which power varies over a cycle, as described in Section 5, Paragraph 5.3.2 of IEC 62301, use the average power approach in Paragraph 5.3.2(a). For testing all standby and off modes for which a control setpoint or thermostat can be adjusted for the room air conditioner, adjust the setpoint or thermostat to 79 °F.

**4.2.1** If a room air conditioner has an inactive mode, as defined in Section 1.5, measure and record the average inactive mode power of the room air conditioner,  $P_{IA}$ , in watts.

**4.2.2** If a room air conditioner has an off mode, as defined in Section 1.6, measure and record the average off mode power of the room air conditioner,  $P_{OFF}$ , in watts.

**4.2.3** If a room air conditioner has a delay start mode, as defined in section 1.3, test it in this mode by setting it to a delay start time of 5 hours, allowing at least 5 minutes for the power input to stabilize, and then measure and record the average delay start mode power of the room air conditioner,  $P_{DS}$ , in watts, for the following 60 minutes.

**4.2.4** If a room air conditioner has an off-cycle mode, as defined in Section 1.7, measure and record the average off-cycle mode power of the room air conditioner,  $P_{CF}$ , in watts.

#### 5. Calculations.

\* \* \* \* \*

**5.3 Standby mode and off mode annual energy consumption.** Calculate the standby mode and off mode annual energy consumption for room air conditioners,  $E_{TSO}$ , expressed in kilowatt-hours per year, according to the following:

$$E_{TSO} = [(P_{IA} \times S_{IA}) + (P_{OFF} \times S_{OFF}) + (P_{DS} \times S_{DS}) + (P_{OC} \times S_{OC})] \times K$$

Where:

$P_{IA}$  = room air conditioner inactive mode power, in watts, as measured in section 4.2.1

$P_{OFF}$  = room air conditioner off mode power, in watts, as measured in section 4.2.2.

$P_{DS}$  = room air conditioner delay start mode power, in watts, as measured in section 4.2.3.

$P_{OC}$  = room air conditioner off-cycle mode power, in watts, as measured in section 4.2.4.

If the room air conditioner has both inactive mode and off mode,  $S_{IA}$  and  $S_{OFF}$  both equal  $S_{TOT}/2$ , where  $S_{TOT}$  is the total inactive and off mode annual hours, determined from the following table:

If the room air conditioner has an inactive mode but no off mode, the inactive mode annual hours,  $S_{IA}$ , is equal to  $S_{TOT}$  and the off mode annual hours,  $S_{OFF}$ , is equal to 0;

If the room air conditioner has an off mode but no inactive mode,  $S_{IA}$  is equal to 0 and  $S_{OFF}$  is equal to  $S_{TOT}$ ;

$S_{DS}$  = room air conditioner delay start mode annual hours, as determined from the following table;

$S_{OC}$  = room air conditioner off-cycle mode annual hours, as determined from the following table; and

$K = 0.001$  kWh/Wh conversion factor for watt-hours to kilowatt-hours.

| Annual hours    | Room air conditioner standby modes present |                     |                   |                                  |
|-----------------|--|---------------------|-------------------|----------------------------------|
|                 | Delay start and off-cycle modes            | No delay start mode | No off-cycle mode | No delay start or off-cycle mode |
| $S_{DS}$ .....  | 90   | 0                   | 90                | 0                                |
| $S_{OC}$ .....  | 440  | 470                 | 0                 | 0                                |
| $S_{TOT}$ ..... | 4,850                                      | 4,880               | 5,070             | 5,115                            |

[FR Doc. E8–28952 Filed 12–8–08; 8:45 am]

BILLING CODE 6450–01–P

## DEPARTMENT OF ENERGY

### 10 CFR Part 1004

RIN 1901–AA32

### Revision of Department of Energy's Freedom of Information Act Regulations

**AGENCY:** Office of FOIA and Privacy Act, Office of Information Resources, Department of Energy.

**ACTION:** Notice of proposed rulemaking and opportunity for comment.

**SUMMARY:** The Department of Energy (DOE) publishes a proposed rule to amend the existing regulations at Part 1004 that establish procedures by which records may be requested from all DOE offices pursuant to the Freedom of Information Act (FOIA). This proposed rule would streamline DOE's procedures for determining the releasability of information and update the fee requirements for the reproduction of documents.

This proposed rule would remove the so-called “extra balancing test” in section 1004.1 which states: “To the

extent permitted by other laws, the DOE will make records available which it is authorized to withhold under 5 U.S.C. 552 whenever it determines that such disclosure is in the public interest.” This sentence imposes an additional burden on DOE to reconsider a determination to legally withhold information in accordance with 5 U.S.C. 552.

In addition, this proposed rule would amend section 1004.9(a)(4) to raise the per page rate for paper copy reproductions and microform to paper copies to the rate of 20 cents per page.

Additional administrative changes which do not require notice and comment will be promulgated in the

Final Rule to bring DOE's regulations into compliance with the 1996 Amendments to the FOIA and to reflect minor alterations in DOE's internal organizational structure.

**DATES:** Public comment on this proposed rule will be accepted until January 8, 2009. See section III of the **SUPPLEMENTARY INFORMATION** section of this notice for additional information about public comment procedures.

**ADDRESSES:** You may submit comments, identified by RIN 1901-AA32, by any of the following methods:

1. *Federal eRulemaking Portal:*  
<http://www.regulations.gov>. Follow the instructions for submitting comments.

2. *E-mail to*  
[kevin.hagerty@hq.doe.gov](mailto:kevin.hagerty@hq.doe.gov). Include RIN 1901-AA32 in the subject line of the e-mail. Please include the full body of your comments in the text of the message or as an attachment.

3. *Mail:* Address written comments to Mr. Kevin Hagerty, U.S. Department of Energy, Office of Information Resources, Mailstop MA-90, Room 1G-051, 1000 Independence Avenue, SW., Washington, DC 20585. Due to potential delays in DOE's receipt and processing of mail sent through the U.S. Postal Service, we encourage respondents to submit comments electronically to ensure timely receipt.

This notice of proposed rulemaking, public comments, and any other material that DOE receives about this rulemaking are being made available on the Office of Information Resources Web site at: [http://www.management.energy.gov/foia\\_pa.htm](http://www.management.energy.gov/foia_pa.htm). You also may obtain copies of comments by contacting Ms. Verlette Gatlin.

**FOR FURTHER INFORMATION CONTACT:** Ms. Verlette Gatlin, Department of Energy, Office of Information Resources, Mailstop MA-90, Room 1G-051, 1000 Independence Avenue, SW., Washington, DC 20585; [verlette.gatlin@hq.doe.gov](mailto:verlette.gatlin@hq.doe.gov), (202) 586-5958.

#### **SUPPLEMENTARY INFORMATION:**

- I. Introduction
- II. Discussion of Proposed Rule
- III. Public Comment Procedures
- IV. Regulatory Review

#### **I. Introduction**

Part 1004 contains the regulations of the Department of Energy (DOE) that implement 5 U.S.C. 552. This part provides information concerning the procedures by which the public may request records from DOE offices, and the policies under which records shall be furnished to members of the public.

Section 1004.1, *Purpose and Scope*, requires DOE to perform an additional balancing test, to the extent permitted by law, when determining whether to withhold information under the nine enumerated exemptions to the FOIA. This additional test requires DOE to make available records that could be withheld under the FOIA exemptions, if DOE determines that disclosure would be in the public interest. DOE is proposing to remove the extra balancing test, because it goes beyond the requirements of the FOIA, and imposes unnecessary administrative requirements on DOE.

DOE also is proposing to amend 10 CFR 1004.9(a)(4), which provides for DOE to charge requesters for paper copy reproduction of documents. At present, the charge for paper to paper copies is five cents per page and the charge for microform to paper copies is ten cents per page. DOE is proposing to raise the per page rate for both paper copy reproductions and microform to paper copies to 20 cents per page.

#### **II. Discussion of Proposed Rule**

In determining how to revise the existing regulation in 10 CFR 1004.1, DOE reached this conclusion because the extra balancing test does not alter the outcome of the decision to withhold information, as DOE already incorporates Department of Justice guidance in applying exemptions when determining whether or not to make a discretionary release of information. Therefore, the imposition of an extra balancing test is cumbersome and unnecessary.

In determining how to proceed in raising the per-page rate for paper reproductions, DOE compared the rates of fellow Cabinet-level agencies and found that the rate of 20 cents a page is comparable to the fees charged throughout the executive branch. Changing the per page rate from five and ten cents per page (as set in 1988) to twenty cents per page is a modest and reasonable increase that is more reflective of current costs and would bring DOE into conformity with the rest of the government. This change is wholly consistent with 5 U.S.C. 552(a)(4)(a)(ii)(I): "fees shall be limited to reasonable standard charges for document search, duplication, and review, when records are requested for commercial use."

#### **III. Public Comment Procedures**

Interested persons are invited to participate in this proceeding by submitting data, views, or arguments. Written comments should be submitted to the address, and in the form,

indicated in the **ADDRESSES** section of this notice of proposed rulemaking. To help DOE review the comments, interested persons are asked to refer to specific proposed rule provisions, if possible.

If you submit information that you believe to be exempt by law from public disclosure, you should submit one complete copy, as well as one copy from which the information claimed to be exempt by law from public disclosure has been deleted. DOE is responsible for the final determination with regard to disclosure or nondisclosure of the information and for treating it accordingly under the DOE Freedom of Information regulations at 10 CFR 1004.11.

DOE has determined that this rulemaking does not present a substantial issue of fact or law, or is likely to have the kinds of substantial impacts, that warrant an opportunity for oral presentation of views, data, and arguments pursuant to 42 U.S.C. 7191(b).

#### **IV. Regulatory Review**

##### *A. Review Under Executive Order 12866*

Today's regulatory action has been determined not to be a "significant regulatory action" under Executive Order 12866, "Regulatory Planning and Review," 58 FR 51735 (October 4, 1993), as amended by Executive Order 13258, 67 FR 9385 (February 26, 2002). Accordingly, this action was not subject to review under that Executive Order by the Office of Information and Regulatory Affairs of the Office of Management and Budget.

##### *B. Review Under the National Environmental Policy Act*

DOE has concluded that these proposed regulations fall into the class of actions that do not individually or cumulatively have a significant impact on the human environment as set forth in DOE's regulations implementing the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). Specifically, the rule is covered under the categorical exclusion in paragraph A5 of Appendix A to subpart D, 10 CFR part 1021, which applies to rulemaking that interprets or amends an existing rule or regulation that does not change the environmental effect of the rule or regulation being amended. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

##### *C. Review Under the Regulatory Flexibility Act*

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation

of an initial regulatory flexibility analysis for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by Executive Order 13272, "Proper Consideration of Small Entities in Agency Rulemaking," 67 FR 53461 (August 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process (68 FR 7990). DOE has made its procedures and policies available on the Office of General Counsel's Web site: <http://www.gc.doe.gov>.

DOE has reviewed today's proposed rule under the provisions of the Regulatory Flexibility Act and the procedures and policies published on February 19, 2003. DOE certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities. In practice, the majority of FOIA requesters submitting requests to DOE qualify for a waiver of fees under 10 CFR 1004.9(b)(1)–(3). Accordingly, DOE has not prepared a regulatory flexibility analysis for this rulemaking. DOE's certification and supporting statement of factual basis will be provided to the Chief Counsel for Advocacy of the Small Business Administration pursuant to 5 U.S.C. 605(b).

#### *D. Review Under the Paperwork Reduction Act*

This rulemaking would impose no new information or recordkeeping requirements. Accordingly, Office of Management and Budget clearance is not required under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### *E. Review Under the Unfunded Mandates Reform Act*

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires each Federal agency to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency regulation that may result in the expenditure by States, tribal or local governments, in the aggregate, or by the private sector, of \$100 million in any one year. The Act also requires Federal agencies to develop an effective process to permit timely input by elected officials of State, tribal, or local governments on a proposed significant intergovernmental mandate, and requires an agency plan for giving notice and opportunity to provide timely input

to potentially affected small governments before establishing any requirements that might significantly or uniquely affect small governments. DOE has determined that the proposed rule published today does not contain any Federal mandates affecting States, tribal, or local governments, or the private sector, and, thus, no assessment or analysis is required under the Unfunded Mandates Reform Act of 1995.

#### *F. Review Under Executive Order 12988*

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, "Civil Justice Reform" 61 FR 4779 (February 7, 1996), imposes on Federal agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; (3) provide a clear legal standard for affected conduct rather than a general standard; (4) and promote simplification and burden reduction. With regard to the review required by section 3(a), section 3(b) of Executive Order 12988 specifically requires that Federal agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting the clarity and general draftsmanship under guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this proposed rule meets the relevant standards of Executive Order 12988.

#### *G. Review Under Executive Order 13132*

Executive Order 13132, "Federalism," 64 FR 43255 (August 10, 1999) imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. Agencies are required to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the states and carefully assess the necessity for such actions. DOE has examined this

proposed rule and has determined that it would not preempt State law and would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibility among the various levels of government. No further action is required by Executive Order 13132.

#### *H. Review Under the Treasury and General Government Appropriations Act, 1999*

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any proposed rule that may affect family well-being. This proposed rule would have no impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

#### *I. Review Under Executive Order 13211*

Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy, Supply, Distribution, or Use," 66 FR 28355 (May 22, 2001) requires preparation and submission to OMB of a Statement of Energy Effects for any proposed significant energy action. A "significant energy action" is defined as any action by an agency that promulgated or is expected to lead to promulgation of a final rule, and that: (1) Is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy, or (3) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use. DOE has determined that the proposed rule published today would not have a significant adverse effect on the supply, distribution, or use of energy and, thus, the requirement to prepare a Statement of Energy Effects does not apply.

#### *J. Review Under the Treasury and General Government Appropriations Act, 2001*

The Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516 note) provides for agencies to review most dissemination

of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE's guidelines were published at 67 FR 62446 (Oct. 7, 2002). DOE has reviewed today's proposed rule under the OMB and DOE guidelines, and has concluded that it is consistent with applicable policies in those guidelines.

#### IV. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this proposed rule.

#### List of Subjects in 10 CFR Part 1004

Electric power, Electric utilities, Energy, Freedom of Information, Reporting and recordkeeping requirements.

Issued in Washington, DC.

**Ingrid Kolb,**

*Director, Office of Management.*

For the reasons set forth in the preamble, the Department of Energy proposes to amend Part 1004 of Title 10 of the Code of Federal Regulations as set forth below.

#### PART 1004—FREEDOM OF INFORMATION

1. The authority citation for part 1004 continues to read as follows:

**Authority:** 5 U.S.C. 552.

##### § 1004.1 [Amended]

2. Section 1004.1 is amended by removing the last sentence.

##### § 1004.9 [Amended]

3. Section 1004.9(a)(4) is amended by removing "five" and "ten" in the first sentence and adding in both places "twenty".

[FR Doc. E8-28940 Filed 12-8-08; 8:45 am]

BILLING CODE 6450-01-P

#### DEPARTMENT OF TRANSPORTATION

#### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2007-28077; Directorate Identifier 2007-NE-20-AD]

RIN 2120-AA64

#### Airworthiness Directives; Turbomeca S.A. Arriel 2B, 2B1, and 2B1A Turboshaft Engines

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

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

**SUMMARY:** We propose to adopt a new airworthiness directive (AD) for the products listed above. This proposed AD results from mandatory continuing airworthiness information (MCAI) provided by the aviation authority of France to identify and correct an unsafe condition on an aviation product. The MCAI states the following:

Several cases of Gas Generator Turbine (HP Turbine) blade rearward displacement have been detected during borescope inspection or in repair centre following engine disassembly. Two of them resulted in blade rubs between the rear face of the fir-tree roots and the rear bearing support cover. High HP blade rearward displacement can potentially result in blade release due to fatigue of the blade, which would cause an uncommanded in-flight engine shutdown.

We are proposing this AD to prevent an uncommanded in-flight engine shutdown which could result in an emergency autorotation landing or, at worst, an accident.

**DATES:** We must receive comments on this proposed AD by January 8, 2009.

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

- **Federal eRulemaking Portal:** Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically.
- **Mail:** Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12-140, Washington, DC 20590-0001.
- **Hand Delivery:** Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- **Fax:** (202) 493-2251.

#### 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 regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647-5527) is the same as the Mail address provided in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

#### FOR FURTHER INFORMATION CONTACT:

Christopher Spinney, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: [christopher.spinney@faa.gov](mailto:christopher.spinney@faa.gov); telephone (781) 238-7175; fax (781) 238-7199.

#### SUPPLEMENTARY INFORMATION:

##### Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA-2007-28077; Directorate Identifier 2007-NE-27-AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to <http://www.regulations.gov>, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of the Web site, anyone can find and read the comments in any of our dockets, including, if provided, the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78).

##### Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2007-0109, dated April 19, 2007 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The EASA AD states:

Several cases of Gas Generator Turbine (HP Turbine) blade rearward displacement have been detected during borescope inspection or in repair centre following engine disassembly. Two of them resulted in blade rubs between the rear face of the fir-tree roots and the rear bearing support cover.

High HP blade rearward displacement can potentially result in blade release due to fatigue of the blade, which would cause an uncommanded in-flight engine shutdown.

The evaluation of this condition has prompted to require a periodic borescope inspection in order to detect HP blade rearward displacement. Additionally, in case displacement is found above the specified limit, removal of Module 03 is required.

You may obtain further information by examining the EASA AD in the AD docket.

##### Relevant Service Information

Turbomeca S.A. has issued Mandatory Service Bulletin No. 292 72