

§ 575.207 Agency relocation incentive plan and approval levels.

(a) * * *

(1) The designation of officials with authority to—

(i) Review and approve payment of relocation incentives (subject to paragraph (b) of this section);

(ii) Waive the relocation incentive payment limitation under § 575.209(c) (subject to the approval requirements in paragraph (b) of this section); and

(iii) Waive the repayment of a relocation incentive under § 575.211(h);

* * * * *

(b) (1) Except as provided in paragraph (b)(2) of this section, an authorized agency official who is at least one level higher than the employee's supervisor must review and approve each determination to pay a relocation incentive, unless there is no official at a higher level in the agency. If a determination includes a waiver of the payment limitation in § 575.209(c), the official who is designated in the agency's plan under § 575.207(a) to approve waivers must approve the determination. The authorized agency official must review and approve the relocation incentive determination before the agency pays the incentive to the employee.

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■ 10. In § 575.209, revise paragraph (c) to read as follows:

§ 575.209 Payment of relocation incentives.

* * * * *

(c) (1) An authorized agency official may waive the limitation in paragraph (b)(1) of this section for an employee (or group of employees, if the case-by-case determination is waived under the conditions in § 575.208(b)) based on a critical agency need. The authorized agency official must determine that the competencies required for the position are critical to the successful accomplishment of an important agency mission, project, or initiative (e.g., programs or projects related to a national emergency or implementing a new law or critical management initiative). Under such a waiver, the total amount of relocation incentive payments paid to an employee in a service period may not exceed 50 percent of the annual rate of basic pay of the employee at the beginning of the service period multiplied by the number of years (including fractions of a year) in the service period. However, in no event may a waiver provide total relocation incentive payments exceeding 100 percent of the employee's annual rate of basic pay at the beginning of the service period.

(2) Waiver determinations must be in writing and include—

(i) A description of the critical agency need the relocation incentive would address;

(ii) The documentation required by § 575.208;

and

(iii) Any other information pertinent to the case at hand.

* * * * *

■ 11. In § 575.210, revise paragraph (f) to read as follows:

§ 575.210 Service agreement requirements.

* * * * *

(f) The service agreement may include any other terms or conditions that, if violated, will result in termination of the service agreement. For example, the service agreement may specify the employee's work schedule, type of position, and the duties the employee is expected to perform. In addition, the service agreement may address the extent to which periods of time on detail, in a nonpay status, or in a paid leave status are creditable towards the completion of the service period.

■ 12. In § 575.211, revise paragraphs (e) and (f) to read as follows:

§ 575.211 Termination of a service agreement.

* * * * *

(e) If an authorized agency official terminates a service agreement under paragraph (a) of this section, the employee is entitled to all relocation incentive payments attributable to completed service and to retain any portion of a relocation incentive payment the employee received that is attributable to uncompleted service.

(f) If an authorized agency official terminates a service agreement under paragraph (b) of this section, the employee is entitled to retain relocation incentive payments previously paid by the agency that are attributable to the completed portion of the service period. If the employee received relocation incentive payments that are less than the amount that would be attributable to the completed portion of the service period, the agency is not obligated to pay the employee the amount attributable to completed service, unless the agency agreed to such payment under the terms of the relocation incentive service agreement. If the employee received relocation incentive payments in excess of the amount that would be attributable to the completed portion of the service period, the employee must repay the excess amount, except when an authorized agency official waives the requirement

to repay the excess amount under paragraph (h) of this section.

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DEFENSE NUCLEAR FACILITIES SAFETY BOARD**10 CFR Part 1703**

[Docket No. DNFSB–2024–01]

Freedom of Information Act Fee Schedule**AGENCY:** Defense Nuclear Facilities Safety Board.**ACTION:** Notice of proposed rulemaking.

SUMMARY: The Defense Nuclear Facilities Safety Board (DNFSB or Board) is proposing to revise its Freedom of Information Act (FOIA) fee schedule and to make conforming amendments to two related provisions of its FOIA regulations.

DATES: To be considered, comments must be submitted by December 15, 2023.

ADDRESSES: You may submit written comments by either of the following methods:

- *Email:* Send comments to comment@dnfsb.gov. Please include “FOIA Fee Revision” in the subject line of your email.

- *Mail or Hand Delivery:* Send hard copy comments to the Defense Nuclear Facilities Safety Board, Attn: General Manager, 625 Indiana Avenue NW, Suite 700, Washington, DC 20004–2901.

FOR FURTHER INFORMATION CONTACT: Tayrn L. Gude, Director, Division of Operational Services, Office of the General Manager, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue NW, Suite 700, Washington, DC 20004–2901, (202) 694–7000 (Toll Free (800) 788–4016).

SUPPLEMENTARY INFORMATION:**I. Background**

The Freedom of Information Act requires Federal agencies to which it applies to publish a schedule of the costs that they may charge for the expenditures incurred in responding to requests for their records. Guidelines published by the Office of Management and Budget assist agencies in meeting that requirement and provide a structure for its consistent implementation across the Executive Branch, 5 U.S.C. 552(a)(4)(A)(i), and “Uniform Freedom of Information Act Fee Schedules and Guidelines,” 52 FR 10012 (March 27, 1987), Revised 85 FR 81955 (Dec. 17,

2020), respectively. In accordance with those authorities, the Board's FOIA regulations require it to publish and regularly update a schedule identifying the expenditures it might seek to recover and the cost associated with each request. 10 CFR 1703.107(b)(6).

Since implementing its FOIA program, 56 FR 21261, May 8, 1991, DNFSB has calculated the fees charged for document search and review time based on the average hourly pay rate of its employees, plus the average hourly projected benefit cost. DNFSB has charged the costs of reproducing records directly to the requester either at the actual cost to the agency, or the amount charged by a commercial service. As of its most recent update, 80 FR 52174, Aug. 28, 2015, DNFSB's schedule of fees is as follows:

Search or Review Charge: \$85.00 per hour
 Copy Charge:
 Paper: \$.05 per page, if done in-house, or generally available commercial rate, approximately \$0.10 per page
 Electronic Media: \$5.00 per electronic media
 Audio and Video Cassettes: Actual commercial rates
 Duplication CD or DVD: \$25.00 for each individual DVD; \$16.50 for each duplicate DVD
 Large Documents, e.g., maps or diagrams: Actual commercial rates

II. Overview of Proposed Rule

In this action, DNFSB is proposing the following changes to the FOIA fee schedule:

1. Incorporating a schedule of fees in DNFSB's FOIA fee regulation (at 10 CFR 1703.107(b)(6)), rather than publishing the fees in a separate, non-codified **Federal Register** publication;
2. Separating the fee schedule for both manual and electronic record searches; and
3. Including the direct cost of computer time into the cost of electronic record searches; and,
4. Changing the basis used for calculating the cost of the time spent by employees searching for and/or reviewing records in response to FOIA requests.

Pursuant to this proposal, those costs will be calculated using the actual salary rate(s) (*i.e.*, basic hourly rate of pay plus an additional 16 percent for benefit costs) of the employee(s) performing the work. DNFSB currently uses the average of all employees' hourly pay rates plus average projected benefit costs as the basis for determining fees. DNFSB finds that the methodology should be changed for several reasons. First, basing costs on the salary of the

employee performing the work is more precise than basing them on an agency-wide average pay rate. Second, basing costs on the salary of the employee accurately reflects the actual costs incurred by the agency in searching for and reviewing responsive documents. Finally, it will eliminate the need to annually *republish* the FOIA fee schedule to account for the changed amount of the average employee salary resulting from Congressional changes to rates of pay, the number of agency employees, and their job classifications.

In this action, DNFSB is also announcing a proposal to amend the following four subsections of its FOIA fee regulation, 10 CFR 1703.107, to reflect the agency's adoption of actual salary cost(s) of the employee(s) performing document search and review activities for calculating response costs to be charged to requesters:

1. § 1703.107(b)(1) "*Direct Costs*"
2. § 1703.107(b)(2)(i) "*Fees*" (commercial use requests)
3. § 1703.107(b)(2)(iii) "*Fees*" ("other" requesters)
4. § 1703.107(b)(6) "*Annual adjustment of fees*"

II. Regulatory Analysis

Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 601–612, agencies must consider the impact of their rulemakings on "small entities" (small businesses, small organizations, and local governments) when publishing regulations subject to the notice and comment requirements of the Administrative Procedure Act. These proposed regulations pertain to the Board's policies and practices for processing FOIA requests, and do not impose any new requirements on small entities. Therefore, no analysis is required by the Regulatory Flexibility Act.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in aggregate, or by the private sector, of \$100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions are deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996, as amended, 5

U.S.C. 804. This rule will not result in an annual effect on the economy of \$100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Paperwork Reduction Act

This rule contains no new reporting or recordkeeping requirements under the Paperwork Reduction Act (PRA) of 1995, 44 U.S.C. 3501 *et seq.* This update to the Board's FOIA regulations does not require or request information from members of the public. Therefore, this rulemaking is not covered by the restrictions of the PRA.

Executive Order 12988—Civil Justice Reform

These proposed regulations meet the applicable standards set forth in Executive Order 12988.

Executive Order 13132—Federalism

According to Executive Order 13132, agencies must state in clear language the preemptive effect, if any, of new regulations. The amendments to the Board's FOIA regulations affect only how the Board responds to requests for information and have no effect on preemption of State, tribal, or local government laws or otherwise have federalism implications.

Congressional Review Act

This is a rule under the Congressional Review Act. The Board will send a copy of this rulemaking to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

List of Subjects in 10 CFR Part 1703

Freedom of Information.

For the reasons discussed in the preamble, the Defense Nuclear Facilities Safety Board proposes to amend 10 CFR part 1703 as follows:

- 1. The authority citation for part 1703 continues to read:

Authority: 5 U.S.C. 301, 552; 31 U.S.C. 9701; 42 U.S.C. 2286b.

- 2. Amend § 1703.107 by revising paragraphs (b)(1), (b)(2)(i), (ii), (iii), and (b)(6) to read as follows:

§ 1703.107 Fees for record requests.

*	*	*	*	*
(b)	*	*	*	
(1)	*	*	*	
*	*	*	*	*

Direct costs mean those expenditures which DNFSB incurs in search, review,

and duplication, as applicable to different categories of requesters, to respond to requests under § 1703.105. Direct costs include, for example, the hourly salary and projected benefits costs of agency employees who search for, review, or duplicate records in response to a request. Overhead expenses such as cost of space, and heating or lighting the facility in which DNFSB records are stored are not included in direct costs.

* * * * *

(2) *Fees.* (i) If documents are requested for commercial use, DNFSB shall charge the hourly salary and projected benefits costs of agency employees who search for and review records in response to a request, and for the costs of duplication as set out in subsection (b)(6) of this section.

(ii) If documents are not sought for commercial use and the request is made by an educational or noncommercial scientific institution, whose purpose is scholarly or scientific research, or a representative of the news media, DNFSB's charges shall be limited to the direct costs of duplication as set out in subsection (b)(6) of this section.

(iii) For a request not described in paragraphs (b)(2) (i) or (ii) of this section, DNFSB shall charge the hourly salary and projected benefits costs of the agency's employee(s) who search for records in response to a request and the direct costs of duplication as set out in subsection (b)(6) of this section. There shall be no charge for document review time, and the first 100 pages of reproduction and the first two hours of search time will be provided without charge.

* * * * *

(6) *Schedule of Fees.* (1) To the extent authorized by these regulations, DNFSB is authorized to seek the following fees to recover costs incurred in responding to FOIA requests:

(i) Document Search Charges

(A) *Manual:* Salary rate(s) (basic hourly pay plus 16 percent) of employee(s) performing records search or review.

(B) *Electronic:* Salary rate(s) (basic hourly pay plus 16 percent) of employee(s) performing search or review.

(ii) *Document Review Charges:* Salary rate(s) (basic hourly pay plus 16 percent) of employee(s) performing search or review.

(2) DNFSB will charge requesters who seek records for commercial purposes for the cost of reviewing them to determine whether they are exempt from mandatory disclosure. The agency will assess these charges only when the

records are first analyzed to determine the applicability of a specific exemption to a record or portion thereof. DNFSB will not charge for the review of an exemption previously applied at the administrative review level. If a record or portion thereof was withheld in full under an exemption that is subsequently found inapplicable, it may be reviewed again to determine the applicability of other exemptions not previously considered. DNFSB may charge for the cost of such review.

(3) Copying Charges

(i) *Paper:* \$.05 per page, if done in-house, or generally available commercial rate, approximately \$0.10 per page.

(ii) *Electronic Media:* Direct cost, including operator time (employee's basic hourly pay plus 16 percent).

(iii) *Audio and Video Cassette:* Actual commercial rates.

(iv) *Duplication of CD or DVD:* Direct cost, including operator time (employee's basic hourly pay plus 16 percent).

(v) *Large Documents, e.g., maps or diagrams:* Actual commercial rates.

Dated: November 8, 2023.

Joyce Connery,
Chair.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2023-2000; Project Identifier MCAI-2023-00415-T]

RIN 2120-AA64

Airworthiness Directives; Bombardier, Inc., Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Bombardier, Inc., Model BD-700-1A10 and BD-700-1A11 airplanes. This proposed AD was prompted by reports that some overheat detection sensing elements of the bleed air leak detection system were manufactured with insufficient salt fill, which can result in an inability to detect hot bleed air leaks. This proposed AD would require maintenance records verification, and if an affected part is installed, would prohibit the use of certain Master Minimum Equipment

List (MMEL) items under certain conditions by requiring revising the operator's existing MEL. This proposed AD would also require testing the overheat detection sensing elements, marking each serviceable sensing element with a witness mark, and replacing each non-serviceable part with a serviceable part. This proposed AD would also prohibit the installation of affected parts under certain conditions. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by January 2, 2024.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to [regulations.gov](https://www.regulations.gov). Follow the instructions for submitting comments.

- *Fax:* 202-493-2251.

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

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

AD Docket: You may examine the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA-2023-2000; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For Bombardier service information identified in this NPRM, contact Bombardier Business Aircraft Customer Response Center, 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514-855-2999; email: ac.yul@aero.bombardier.com; website: [bombardier.com](https://www.bombardier.com).

- For Liebherr-Aerospace Toulouse SAS service information identified in this NPRM, contact Liebherr-Aerospace Toulouse SAS, 408, Avenue des Etats-Unis—B.P.52010, 31016 Toulouse Cedex, France; telephone +33 (0)5.61.35.28.28; fax +33 (0)5.61.35.29.29; email: techpub.toulouse@liebherr.com; website: www.liebherr.aero.

- You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th Street, Des Moines, WA. For information on the