Emergency Action

This rulemaking is necessary on an emergency basis to prevent END from spreading to other States. Under these circumstances, the Administrator has determined that prior notice and opportunity for public comment are contrary to the public interest and that there is good cause under 5 U.S.C. 553 for making this rule effective less than 30 days after publication in the **Federal Register**.

We will consider comments that we receive during the comment period for this interim rule (see **DATES** above). After the comment period closes, we will publish another document in the **Federal Register**. The document will include a discussion of any comments we receive and any amendments we are making to the rule.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review under Executive Order 12866.

This rule amends the END regulations by adding Los Angeles County and portions of Riverside and San Bernardino Counties, CA, to the list of quarantined areas. The regulations restrict the interstate movement of birds, poultry, products, and materials that could spread END from the quarantined area.

This emergency situation makes timely compliance with section 604 of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) impracticable. We are currently assessing the potential economic effects of this action on small entities. Based on that assessment, we will either certify that the rule will not have a significant economic impact on a substantial number of small entities or publish a final regulatory flexibility analysis.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are in conflict with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 82

Animal diseases, Poultry and poultry products, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, 9 CFR part 82 is amended as follows:

PART 82—EXOTIC NEWCASTLE DISEASE (END) AND CHLAMYDIOSIS; POULTRY DISEASE CAUSED BY SALMONELLA ENTERITIDIS SEROTYPE ENTERITIDIS

1. The authority citation for part 82 is revised to read as follows:

Authority: 7 U.S.C. 8304–8306, 8308, 8313, and 8315; 7 CFR 2.22, 2.80, and 371.4.

2. In § 82.3, paragraph (c) is revised to read as follows:

§ 82.3 Quarantined areas.

* * * * *

(c) The following areas are quarantined because of END:

California

Los Angeles, Riverside, and San Bernardino Counties. All of Los Angeles County. That portion of San Bernardino County south of State Highway 58 and bounded by an imaginary line beginning at the intersection of the Kern County line and State Highway 58; then southeast along State Highway 58 to Interstate Highway 15; then south along Interstate Highway 15 to State Highway 247; then southeast along State Highway 247 to State Highway 62; then south along State Highway 62 to the Riverside County line. That portion of Riverside County south of the Riverside County line and bounded by an imaginary line beginning at the intersection of State Highway 62 and the Riverside County line; then south along State Highway 62 to Interstate Highway 10; then southeast along Interstate Highway 10 to State Highway 111 (Golf Center Parkway); then south along State Highway 111 to State Highway 86; then southeast along State Highway 86 to the Imperial County line.

Done in Washington, DC, this 21st day of November, 2002.

Peter Fernandez,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 02–29987 Filed 11–25–02; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

10 CFR Part 431

[Docket No. EE–RM–96–400]

RIN 1904–AB11

Energy Efficiency Program for Certain Commercial and Industrial Equipment: Extension of Time for Electric Motor Manufacturers To Certify Compliance With Energy Efficiency Standards

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Final rule.

SUMMARY: This procedural rule amends the compliance certification regulations by revising the deadline date for all electric motor manufacturers to certify compliance to the Department of Energy that their motors meet the applicable energy efficiency standards.

DATES: This rule is effective November 26, 2002.

FOR FURTHER INFORMATION CONTACT: James Raba, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Mail Station EE–41, 1000 Independence Avenue, SW., Washington, DC 20585–0121, telephone (202) 586–8654, telefax (202) 586–4617, or: *jim.raba@ee.doe.gov.*

Francine Pinto, Esq., U.S. Department of Energy, Office of General Counsel, Mail Station GC–72, 1000 Independence Avenue, SW., Washington, DC 20585–0103, (202) 586–7432, telefax (202) 586–4116, or: *francine.pinto@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 345(c) of the Energy Policy and Conservation Act of 1975 (EPCA) requires ''manufacturers to certify, through an independent testing or certification program nationally recognized in the United States, that such motor meets the applicable [nominal full load efficiency standard]'' (42 U.S.C. 6316(c)). The Department of Energy (DOE) construes the statutory language to provide manufacturers with two equivalent ways to fulfill the certification requirement: (1) A

manufacturer may certify, through an independent testing program nationally recognized in the United States, that a covered motor meets the standard; or (2) a manufacturer may certify, through an independent certification program nationally recognized in the United States, that a covered motor meets the standard. DOE is of the view that section 345(c) does not require preference for one program over the other.

The procedures by which a manufacturer may certify the energy efficiency of the manufacturer's electric motors, through either a certification program or an accredited laboratory, are set forth in 10 CFR 431.24(a)(5). Section 431.123(a) in 10 CFR part 431 currently provides that, beginning on June 7, 2002, no electric motor ''subject to an energy efficiency standard set forth in subpart C of this part'' may be distributed in commerce unless it is covered by a Compliance Certification that the manufacturer has submitted to DOE.

II. Background

On November 9, 2001, DOE published a notice of final rulemaking in the **Federal Register** that amended 10 CFR 431.123(a) to change the deadline for submission of compliance certifications from November 5, 2001, to June 7, 2002 (66 FR 56604). That action was taken because there was insufficient independent testing laboratory capacity for testing the thousands of basic models of electric motors covered by EPCA's efficiency standards. The notice of final rulemaking reported that a number of motor manufacturers had elected to base the certification of their motors' energy efficiency on testing conducted in a National Voluntary Laboratory Accreditation Program (NVLAP) accredited laboratory. However, about half of the motor manufacturers had elected to base their compliance on a certification program that DOE classifies as nationally recognized. Many of those manufacturers have committed resources in anticipation of certification programs being recognized by DOE. As of the November 9, 2001 date of publication of the notice of final rulemaking, there were no certification programs nationally recognized for the purposes of section 345(c) of EPCA. Therefore, it was impossible for manufacturers electing to use a nationally recognized certification program, as allowed by EPCA, to test and certify their motors for energy efficiency before November 5, 2001.

At that time, DOE believed that the extension of the certification deadline to June 7, 2002, would provide sufficient time for all manufacturers to come into compliance with EPCA's requirements. The new deadline was based on DOE's belief that it would be able to promptly complete action on the petitions for certification program recognition that had been submitted by CSA International and Underwriters Laboratories, Inc., and that such action could be completed in a timeframe that would allow manufacturers, if they so chose, to use an approved certification program and submit required certifications to DOE by the June 7, 2002 deadline. DOE had published for public comment the petition of CSA International on April 26, 2000 (65 FR 24429), and the petition of Underwriters Laboratories, Inc. on October 3, 2001 (66 FR 50355).

III. Discussion of Rule Amendment

DOE was not able to complete action on these two petitions for certification program recognition by June 7, 2002. DOE published its interim determinations to approve the CSA International and Underwriters Laboratories, Inc., petitions for certification program recognition on July 5, 2002. 67 FR 45018 and 45028. Under the certification program recognition process set forth in 10 CFR 431.28(a)–(f), after the period for public comment for the interim determinations closes, DOE will review any comments and information submitted, as well as any responsive statements of the petitioners. DOE then will publish a final determination on the petitions. In the meantime, however, the situation remains the same as it was in November 2001 when DOE granted the previous extension of the deadline in 10 CFR 431.123(a). That is, a number of motor manufacturers have elected to base the certification of their motors' energy efficiency on a certification program that DOE classifies as nationally recognized; many of those manufacturers have committed resources in anticipation of certification programs being recognized by DOE; there are no certification programs nationally recognized for the purposes of section 345(c) of EPCA; it is impossible for manufacturers electing to use a nationally recognized certification program, as allowed by EPCA, to test and certify their motors for energy efficiency before June 7, 2002; and there is insufficient independent testing laboratory capacity for testing the thousands of basic models of electric motors covered by EPCA's efficiency standards. Therefore, DOE is amending section 431.123(a) to further extend the deadline for motor manufacturers to certify compliance with EPCA.

In view of the foregoing, DOE today amends 10 CFR 431.123 to replace ''June 7, 2002'' with a phrase cross-referencing a new paragraph (g), which establishes a new compliance date. New paragraph (g) of 10 CFR 431.123 provides that the new compliance date is April 30, 2003, or the date that is 120 days after the date on which DOE publishes its final determinations for the CSA International and Underwriters Laboratories, Inc. petitions, whichever is earlier. The rule further provides that if DOE publishes the final determinations for the CSA International and Underwriters Laboratories, Inc. petitions on different dates, the compliance certification date is the date that is 120 days after the date of publication of the earlier final determination. DOE believes this approach will result in certifications by manufacturers using certification programs at the earliest possible time. While establishing April 30, 2003 as the outside limit on the extension, DOE expects to issue final determinations on the two petitions in time to allow manufacturers to come into compliance before that date.

The Secretary of Energy has approved issuance of this final rule.

IV. Procedural Issues and Regulatory Review

A. Review Under the National Environmental Policy Act

DOE reviewed today's rule under the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*, the regulations of the Council on Environmental Quality, 40 CFR parts 1500–1508, and DOE's regulations on compliance with NEPA, 10 CFR part 1021. DOE has determined that today's rule is covered by the Categorical Exclusion found at paragraph A6 of appendix A to subpart D of DOE's NEPA regulations, which applies to rulemakings that are strictly procedural. Accordingly, neither an environmental assessment nor an environmental impact statement has been prepared.

B. Review Under Executive Order 12866, ''Regulatory Planning and Review''

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). Accordingly, today's action was not subject to review under the Executive Order by the Office of Information and Regulatory Affairs in the Office of Management and Budget.

C. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, requires that a federal agency prepare a regulatory flexibility analysis for any rule for which the agency is required to publish a general notice of proposed rulemaking. Today's rule is a rule of agency procedure that is exempt from the Administrative Procedure Act's notice and comment requirements. Therefore, a regulatory flexibility analysis has not been prepared.

D. Review Under Executive Order 13132, ''Federalism''

Executive Order 13132, ''Federalism'' (64 FR 43255) requires federal agencies to develop an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have ''federalism implications.'' Policies that have federalism implications are defined in the Executive Order to include regulations that have ''substantial direct effects 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.'' On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations (65 FR 13735). DOE has examined today's rule and determined that it does 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. No further action is required by the Executive Order.

E. Review Under Executive Order 12630, ''Governmental Actions and Interference With Constitutionally Protected Property Rights''

DOE has determined that this regulation would not result in any takings which might require compensation under the Fifth Amendment to the United States Constitution.

F. Review Under the Paperwork Reduction Act

No new collection of information will be imposed by this rulemaking. Accordingly, no clearance by the Office of Management and Budget is required under the Paperwork Reduction Act (44 U.S.C. 3501, *et seq.*).

G. Review Under Executive Order 12988, ''Civil Justice Reform''

With respect to the review of existing regulations and the promulgation of new regulations, section 3 of Executive Order 12988, ''Civil Justice Reform'' (61 FR 4729) imposes on Executive agencies the general duty to eliminate drafting errors and ambiguity; write regulations to minimize litigation; provide a clear legal standard for affected conduct rather than a general standard; and promote simplification and burden reduction. 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. DOE has completed the required review and determined that, to the extent permitted by law, this final rule meets the relevant standards of Executive Order 12988.

H. Review Under Section 32 of the Federal Energy Administration Act

Today's final rule does not incorporate commercial standards by reference. Therefore, section 32 of the Federal Energy Administration Act does not apply to today's final rule.

I. Review Under the Unfunded Mandates Reform Act

DOE has determined that today's final rule does not include a federal mandate that may result in estimated costs of $100 million or more to state, local or to tribal governments in the aggregate or to the private sector. Therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) do not apply.

J. 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 or policy that may affect family well-being. Today's final rule would not have any 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.

K. Review Under Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use''

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,'' (66 FR 28355, May 22, 2001) requires federal agencies to prepare and submit to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget, a Statement of Energy Effects for any proposed significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgates or is expected to lead to the 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 proposed action be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

Today's final rule would not have any adverse effects on the supply, distribution, or use of energy.

L. Review Under the Administrative Procedure Act

Today's final rule is not subject to requirements for prior notice and opportunity for public comment because it is procedural in nature. However, to the extent that 5 U.S.C. 553(b) may apply to this rulemaking, DOE finds that is impracticable and contrary to the public interest to publish prior notice because it is impossible for manufacturers who elected to use a nationally recognized certification program, as allowed by EPCA, to comply with the certification requirement by the June 7, 2002 deadline, and because regulated manufacturers should be relieved as promptly as possible of the threat of potential enforcement of the June 7, 2002 deadline, with which it was impossible for them to comply. This situation also warrants DOE making this final rule effective upon publication in the **Federal Register**.

M. Review Under the Small Business Regulatory Enforcement Fairness Act

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of today's rule prior to its effective date. The report will state that it has been determined that the rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 10 CFR Part 431

Administrative practice and procedure, Energy conservation,

Reporting and recordkeeping requirements.

Issued in Washington, DC, on November 18, 2002.

David K. Garman,

Assistant Secretary, Energy Efficiency and Renewable Energy.

For the reasons set forth in the preamble, part 431 of chapter II of title 10, Code of Federal Regulations, is amended as follows:

PART 431—ENERGY EFFICIENCY PROGRAM FOR CERTAIN COMMERCIAL AND INDUSTRIAL EQUIPMENT

1. The authority citation for part 431 continues to read as follows:

Authority: 42 U.S.C. 6311–6316.

2. Section 431.123 is amended in paragraph (a), in the first sentence, by removing the phrase ''Beginning June 7, 2002'' and adding in its place the phrase ''Beginning on the compliance date specified in paragraph (g) of this section'', and by adding a new paragraph (g) to read as follows:

§ 431.123 Compliance certification.

* * * * *

(g) *Compliance date.* The compliance date for purposes of this section is February 28, 2003, or the date that is 120 days after the date of publication in the **Federal Register** of DOE's final determinations on petitions for certification program recognition submitted by CSA International and Underwriters Laboratories, Inc., whichever is earlier. If DOE publishes the final determinations on different dates, the compliance certification date for purposes of this section shall be the date that is 120 days after the date of publication of the earlier final determination.

[FR Doc. 02–29969 Filed 11–25–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–406–AD; Amendment 39–12962; AD 2002–23–18]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–11 and –11F Airplanes Equipped with Collins LRA–900 Radio Altimeters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain McDonnell Douglas Model MD–11 series airplanes equipped with certain Collins LRA–900 radio altimeters, that currently requires a revision to the Airplane Flight Manual to prohibit autopilot coupled autoland operations in certain conditions; or, for certain airplanes, replacement of certain Collins LRA–900 radio altimeters with Collins LRA–700 radio altimeters. This amendment also requires a one-time inspection to determine whether a Collins LRA–900 radio altimeter receiver/transmitter with a certain part number is installed, and modification of such a radio altimeter. This amendment is prompted by reports indicating that a fault in Collins LRA–900 radio altimeters having a certain part number could result in an incorrect and unbounded output of radio altitude to other airplanes. The actions specified by this AD are intended to prevent an undetected anomalous radio altitude signal that is passed along to the flare control law of the flight control computer, which could cause the airplane to flare too high or too low during landing, and consequently result in a hard landing. This action is intended to address the identified unsafe condition.

DATES: Effective December 31, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 31, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). 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, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Brett Portwood, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5350; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 98–24–51, amendment 39–10929 (63 FR 66422, December 2, 1998), which is applicable to certain McDonnell Douglas Model MD–11 series airplanes equipped with certain Collins LRA–900 radio altimeters having certain part numbers, was published in the **Federal Register** on May 15, 2002 (67 FR 34637). The action proposed to continue to require a revision to the Airplane Flight Manual to prohibit autopilot coupled autoland operations in certain conditions; or, for certain airplanes, replacement of certain Collins LRA–900 radio altimeters with Collins LRA–700 radio altimeters. The action also proposed to require a one-time inspection to determine whether a Collins LRA–900 radio altimeter receiver/transmitter with a certain part number is installed, and modification of such a radio altimeter.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

Request To Change Applicability

The commenter suggests that the applicability in the proposed AD be changed from ''McDonnell Douglas Model MD–11 and –11F Airplanes Equipped with Collins LRA–900 Radio Altimeters,'' to ''McDonnell Douglas Model MD–11 and –11F Airplanes Equipped with Collins LRA–900, Part Number (P/N) 822–0334–220, Radio Altimeters.'' The commenter states that this would prevent operators of MD–11 airplanes with Collins radio altimeters having other P/Ns from performing an unnecessary inspection to comply with the proposed AD.

The FAA acknowledges, but does not agree with, the commenter's suggestion. The inspection to determine if airplanes have the radio altimeter with the P/N specified above is required by paragraph (b) of this AD, and the affected P/N is specified in paragraph (b)(1) of this AD. Operators can ascertain what the affected P/N is, and if the radio altimeters do not have the affected P/N, no further action is required by this AD. Therefore, no change to the applicability in this final rule is necessary.

Explanation of Change Made to Proposed AD

The FAA has clarified the inspection requirement contained in the proposed AD. Whereas the proposed AD specified a visual inspection, the FAA has revised