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DEPARTMENT OF ENERGY

10 CFR Parts 429 and 430

[Docket No. EERE-2008-BT-STD-0005]

RIN 1904-AB57

Energy Conservation Program: Energy Conservation Standards for Certain External Power Supplies

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

ACTION: Final rule; technical amendment.

SUMMARY: The U.S. Department of Energy (DOE) is publishing this technical amendment to exclude external power supplies used in specific applications from certain energy conservation standards prescribed under the Energy Policy and Conservation Act (EPCA). Congress enacted this exclusion, which applies to external power supplies used either in security or life safety alarms or surveillance system components, earlier this year. DOE is also modifying its current certification requirements to make them consistent with this change.

DATES: *Effective Date:* October 19, 2011.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

I. Background

The Energy Independence and Security Act of 2007 (Pub. L. 110-140) amended section 325(u)(3) of the Energy Policy and Conservation Act (EPCA) to establish energy conservation standards for all Class A external power supplies. (42 U.S.C. 6295(u)(3)) Among these requirements, Congress included a limit on the amount of power that these devices could draw while operating in “no-load” mode. (The “no-load” mode refers to the condition in which a power supply is connected to mains but not to the separate end-use product that it powers (*i.e.*, the load).) These no-load mode requirements were applied to all Class A external power supplies, irrespective of whether a particular product actually operated in no-load mode.

Subsequently, Congress revisited this issue. On January 4, 2011, Congress enacted Public Law 111-360, which amended section 325(u)(3) of EPCA by prescribing a definition for “security or life safety alarm or surveillance system” and excluding those external power supplies used in certain security or life safety alarms or surveillance system components from the no-load mode requirements Congress had previously set.

Today’s action codifies Congress’s revision to EPCA. Additionally, to ensure consistency throughout its regulatory framework, DOE is also modifying the certification requirements for Class A external power supplies that appear in the Code of Federal Regulations (CFR). These amendments reflect the recent changes enacted by Congress and do not alter any other aspects related to the energy conservation standards for these products. Amendments to those standards, if any, will be handled through a separate rulemaking proceeding.

II. Summary of Today’s Action

DOE is placing the definition and exclusions of certain security and life safety alarms and surveillance systems from the no-load requirements for external power supplies into 10 CFR part 430 (“Energy Conservation Program for Certain Consumer Products”). DOE is making certain formatting changes needed to ensure that the new provisions conform to the existing text of this part. In addition, DOE is

prescribing modifications to 10 CFR part 429 (“Certification, Compliance, and Enforcement for Consumer Products and Commercial and Industrial Equipment”). As a result of these provisions, manufacturers of certain external power supplies for security and life safety alarms and surveillance systems will have the option to certify that their products meet the appropriate definition and, therefore, are exempt from the no-load mode requirements for Class A external power supplies.

In light of the applicable statutory requirement enacted by Congress to set a specific exemption from the no-load mode energy conservation standards for the products described above, the absence of any benefit in providing comment given that the rule incorporates the specific exemption created by the statutory provision, and the unnecessary delay that would follow were DOE to provide comment on a provision that it cannot alter, DOE finds that there is good cause under 5 U.S.C. 553(b)(B) to not provide prior notice and an opportunity for public comment on the actions outlined in this document. For these reasons, providing prior notice and an opportunity for public comment would, in this instance, be unnecessary and contrary to the public interest. For the same reason, DOE finds good cause pursuant to 5 U.S.C. 553(d)(3) to waive the 30-day delay in effective date for this rule.

III. Procedural Requirements

A. Review Under Executive Order 12866, “Regulatory Planning and Review”

Today’s final rule is not a “significant regulatory action” under any of the criteria set out in section 3(f) of Executive Order 12866, “Regulatory Planning and Review.” 58 FR 51735 (October 4, 1993). Accordingly, today’s action was not subject to review by the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB).

B. 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. The Department has made its procedures and policies available on the Office of General Counsel's Web site: <http://www.gc.doe.gov>. DOE today is revising the Code of Federal Regulations to incorporate, without substantive change, exemptions to energy conservation standards and related provisions prescribed by Public Law No. 111-360. Because this is a technical amendment for which a general notice of proposed rulemaking is not required, the Regulatory Flexibility Act does not apply to this rulemaking.

C. Review Under the Paperwork Reduction Act of 1995

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

D. Review Under the National Environmental Policy Act of 1969

DOE has determined that this rule is covered under the Categorical Exclusion found in DOE's National Environmental Policy Act regulations at paragraph A.6 of Appendix A to Subpart D, 10 CFR part 1021, which applies to rulemakings that are strictly procedural. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

E. Review Under Executive Order 13132, "Federalism"

Executive Order 13132, "Federalism." 64 FR 43255 (Aug. 10, 1999) imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have Federalism implications. The Executive Order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive Order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have Federalism implications. 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. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of today's proposed rule. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6297) No further action is required by Executive Order 13132.

F. Review Under Executive Order 12988, "Civil Justice Reform"

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 4729 (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; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction. Section 3(b) of Executive Order 12988 specifically requires that Executive 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 clarity and general draftsmanship under any 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 final rule meets the relevant standards of Executive Order 12988.

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. For a proposed regulatory action likely to result in a rule that may cause the

expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of \$100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a),(b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a proposed "significant intergovernmental mandate," and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect small governments. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA (62 FR 12820) (also available at <http://www.gc.doe.gov>). This final rule contains neither an intergovernmental mandate nor a mandate that may result in the expenditure of \$100 million or more in any year, so these requirements under the UMRA do not apply.

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 rule that may affect family well-being. This 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.

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

The Department has determined, under Executive Order 12630, "Governmental Actions and Interference With Constitutionally Protected Property Rights," 53 FR 8859 (March 18, 1988), that this rule would not result in any takings which might require compensation under the Fifth Amendment to the United States Constitution.

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

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note)

provides for agencies to review most disseminations 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 (February 22, 2002), and DOE's guidelines were published at 67 FR 62446 (October 7, 2002). DOE has reviewed today's rulemaking under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

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 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. This final rule would not have a significant adverse effect on the supply, distribution, or use of energy and, therefore, is not a significant energy action. Accordingly, DOE has not prepared a Statement of Energy Effects.

L. Congressional Notification

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of this 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).

IV. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of today's final rule.

List of Subjects

10 CFR Part 429

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, and Reporting and recordkeeping requirements.

10 CFR Part 430

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, and Small businesses.

Issued in Washington, DC, on September 12, 2011.

Kathleen Hogan,

Deputy Assistant Secretary for Energy Efficiency, Office of Technology Development, Energy Efficiency and Renewable Energy.

For the reasons set forth in the preamble, DOE hereby amends chapter II, subchapter D, of title 10 of the Code of Federal Regulations as set forth below:

PART 429—CERTIFICATION, COMPLIANCE, AND ENFORCEMENT FOR CONSUMER PRODUCTS AND COMMERCIAL AND INDUSTRIAL EQUIPMENT

■ 1. The authority citation for part 429 continues to read as follows:

Authority: 42 U.S.C. 6291–6317.

■ 2. Section 429.37 is amended by adding new paragraph (b)(2)(iii) to read as follows:

§ 429.37 Class A external power supplies.

* * * * *

- (b) * * *
- (2) * * *

(iii) External power supplies that are exempt from no-load mode requirements under § 430.32(w)(1)(iii): A statement that the product is designed to be connected to a security or life safety alarm or surveillance system component, the average active mode efficiency as a percent (%), the nameplate output power in watts (W), and if missing from the nameplate, the certification report must also include the output current in amperes (A) of the basic model or the output current in amperes (A) of the highest- and lowest-voltage models within the external power supply design family.

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

■ 3. The authority citation for part 430 continues to read as follows:

Authority: 42 U.S.C. 6291–6309; 28 U.S.C. 2461 note.

■ 4. Section 430.2 is amended by adding the definition for "Security or life safety alarm or surveillance system" in alphabetical order to read as follows:

§ 430.2 Definitions.

* * * * *

Security or life safety alarm or surveillance system means:

(1) Equipment designed and marketed to perform any of the following functions (on a continuous basis):

- (i) Monitor, detect, record, or provide notification of intrusion or access to real property or physical assets or notification of threats to life safety.
- (ii) Deter or control access to real property or physical assets, or prevent the unauthorized removal of physical assets.
- (iii) Monitor, detect, record, or provide notification of fire, gas, smoke, flooding, or other physical threats to real property, physical assets, or life safety.

(2) This term does not include any product with a principal function other than life safety, security, or surveillance that:

- (i) Is designed and marketed with a built-in alarm or theft-deterrent feature; or
- (ii) Does not operate necessarily and continuously in active mode.

* * * * *

■ 5. Section 430.32 is amended by revising paragraph (w)(1)(i) and adding paragraph (w)(1)(iii) to read as follows:

§ 430.32 Energy and water conservation standards and their effective dates.

* * * * *

(w) *Class A external power supplies.*

(1)(i) Except as provided in paragraphs (w)(1)(ii) and (w)(1)(iii) of this section, all Class A external power supplies manufactured on or after July 1, 2008, shall meet the following standards:

* * *

(iii) *Non-application of no-load mode requirements.* The no-load mode energy efficiency standards established in paragraph (w)(1)(i) of this section shall not apply to an external power supply manufactured before July 1, 2017, that—

- (A) Is an AC-to-AC external power supply;
- (B) Has a nameplate output of 20 watts or more;
- (C) Is certified to the Secretary as being designed to be connected to a security or life safety alarm or surveillance system component; and
- (D) On establishment within the External Power Supply International Efficiency Marking Protocol, as referenced in the "Energy Star Program

Requirements for Single Voltage External Ac-Dc and Ac-Ac Power Supplies” (incorporated by reference, see § 430.3), published by the Environmental Protection Agency, of a distinguishing mark for products described in this clause, is permanently marked with the distinguishing mark.

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[FR Doc. 2011-23965 Filed 9-16-11; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2011-0760; Directorate Identifier 2011-NE-10-AD; Amendment 39-16789; AD 2011-18-07]

RIN 2120-AA64

Airworthiness Directives; WYTORNIA SPRZETU KOMUNIKACYJNEGO (WSK) “PZL- RZESZOW”—SPOLKA AKCYJNA (SA) PZL-10W Turboshaft Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for the products listed above. This AD results from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

An uncommanded engine in-flight shutdown of a PZL-10W has been recently reported. The investigation has shown that the uncommanded engine in-flight shutdown was due to excessive spline wear on the fuel metering pump shaft.

This condition, if not identified and corrected, may lead to further uncommanded in-flight engine shutdowns and consequent emergency landings of the affected helicopters.

We are issuing this AD to prevent uncommanded engine in-flight shutdown and risk to the helicopter.

DATES: This AD becomes effective October 4, 2011.

We must receive comments on this AD by October 19, 2011.

The Director of the Federal Register approved the incorporation by reference of WSK Obligatory Bulletin No. E-19W147B/DOA/2010 (this bulletin has no issue date), listed in the AD as of October 4, 2011.

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:** 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 AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (phone: (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:

James Lawrence, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: james.lawrence@faa.gov; phone: (781) 238-7176; fax: (781) 238-7199.

SUPPLEMENTARY INFORMATION:

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 2011-0030, dated February 25, 2011, (referred to after this as “the MCAI”), to correct an unsafe condition for the specified products. The MCAI states:

An uncommanded engine in-flight shutdown of a PZL-10W has been recently reported. The investigation has shown that the uncommanded engine in-flight shutdown was due to excessive spline wear on the fuel metering pump shaft.

This condition, if not identified and corrected, may lead to further uncommanded in-flight engine shutdowns and consequent emergency landings of the affected helicopters.

To address this unsafe condition, WSK “PZL-Rzeszów” S.A. has developed an inspection programme of the fuel metering pump shaft.

For the reasons described above, this AD requires an inspection of the fuel metering pump shaft and the accomplishment of the associated corrective actions, as applicable.

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

Relevant Service Information

WSK “PZL-Rzeszów” S.A. has issued Obligatory Bulletin No. E-19W147B/DOA/2010 (this bulletin has no issue date). The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA’s Determination and Requirements of This AD

This product has been approved by the aviation authority of Poland, and is approved for operation in the United States. Pursuant to our bilateral agreement with EASA, they have notified us of the unsafe condition described in the MCAI and service information referenced above. We are issuing this AD because we evaluated all information provided by EASA and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

FAA’s Determination of the Effective Date

Since no domestic operators use this product, notice and opportunity for public comment before issuing this AD are unnecessary. Therefore, we are adopting this regulation immediately.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include “Docket No. FAA-2011-0760; Directorate Identifier 2011-NE-10-AD” at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of 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 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