

# Rules and Regulations

Federal Register

Vol. 77, No. 79

Tuesday, April 24, 2012

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

## DEPARTMENT OF ENERGY

### 10 CFR Part 430

[Docket Number EERE-2010-BT-TP-0021]

RIN 1904-AC08

#### Energy Conservation Program: Test Procedures for Residential Clothes Washers; Correction

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

**ACTION:** Final rule; correction.

**SUMMARY:** This final rule corrects the provisions for calculating the annual operating cost of residential clothes washers. In the final rule establishing new and amended test procedures for residential clothes washers, published in the **Federal Register** on March 7, 2012, and effective as of April 6, 2012, the U.S. Department of Energy (DOE) erroneously referenced the new test procedure, rather than the currently effective test procedure, in one section of the provisions for calculating annual operating cost.

**DATES:** This correction is effective April 24, 2012.

#### FOR FURTHER INFORMATION CONTACT:

Stephen L. Witkowski, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, EE-2J, 1000 Independence Avenue SW., Washington, DC 20585-0121. Telephone: (202) 586-7463. Email: [Stephen.Witkowski@ee.doe.gov](mailto:Stephen.Witkowski@ee.doe.gov).

Elizabeth Kohl, Esq., U.S. Department of Energy, Office of General Counsel, GC-71, 1000 Independence Avenue SW., Washington, DC 20585-0121. Telephone: (202) 586-7796. Email: [Elizabeth.Kohl@hq.doe.gov](mailto:Elizabeth.Kohl@hq.doe.gov).

**SUPPLEMENTARY INFORMATION:** DOE published new and amended test procedures for residential clothes

washers on March 7, 2012. 77 FR 13888. The current test procedure is codified at appendix J1 in 10 CFR part 430 subpart B. The March 2012 final rule amended certain provisions in appendix J1, established new clothes washer test procedures codified in a new appendix J2 in 10 CFR part 430 subpart B, and amended the procedures for calculating the annual operating cost in 10 CFR 430.23(j). Residential clothes washer manufacturers may continue to use appendix J1 to determine compliance of their products with energy conservation standards until the compliance date of any amended standards.

In the preamble to the March 2012 final rule, DOE described its intention to amend the annual operating cost calculation in 10 CFR 430.23(j) to incorporate the cost of energy consumed in standby and off modes, and to reflect an updated number of annual use cycles, for clothes washers tested using the new appendix J2. DOE intended to maintain the annual operating cost calculation for clothes washers tested using the currently effective appendix J1, which applies to residential clothes washers currently on the market. In the March 2012 final rule, DOE erroneously referenced appendix J2 in the provisions at newly designated 10 CFR 430.23(j)(1)(i), which are intended to apply to clothes washers tested using appendix J1. The remainder of the text in paragraph (i) correctly refers to appendix J1. The provisions for calculating the annual operating cost of clothes washers tested using appendix J2 are found at the newly created 10 CFR 430.23(j)(1)(ii).

This final rule amends 10 CFR 430.23(j)(1)(i) to reference appendix J1 rather than appendix J2. This correction also applies to the parenthetical note in 430.23(j)(1)(i), which should reference the introductory note in appendix J1 rather than appendix J2.

For clarity and consistency between 430.23(j)(1)(i) and 430.23(j)(1)(ii), this final rule also amends 430.23(j)(1)(ii) to include a parenthetical note, analogous to the parenthetical note in 430.23(j)(1)(i), referencing the introductory note in appendix J2.

#### Procedural Issues and Regulatory Review

The regulatory reviews conducted for this rulemaking are those set forth in the March 2012 final rule that originally codified amendments to DOE's test

procedures for residential clothes washers. The amendments in the March 2012 final rule became effective April 6, 2012.

Pursuant to the Administrative Procedure Act, 5 U.S.C. 553(b), DOE has determined that notice and prior opportunity for comment on this rule are unnecessary and contrary to the public interest. The provisions in 10 CFR 430.23(j)(1)(i) are intended to apply to residential clothes washers currently on the market, as indicated by the remaining text of paragraph (i) that follows the erroneous reference to appendix J2. In addition, this correction is needed to ensure clarity regarding the annual energy cost calculated according to 430.23(j)(1)(i), which is required to be displayed on the Federal Trade Commission's current EnergyGuide Label for residential clothes washers as the primary indicator of product energy efficiency. (16 CFR 305.5(a)(6); 305.11(f)(5); (f)(8)) For these reasons, DOE has also determined that there is good cause to waive the 30-day delay in effective date.

#### List of Subjects in 10 CFR Part 430

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Imports, Incorporation by reference, Intergovernmental relations, Small businesses.

Issued in Washington, DC, on April 17, 2012.

**Kathleen B. Hogan,**

*Deputy Assistant Secretary, Energy Efficiency and Renewable Energy.*

For the reasons stated in the preamble, part 430 of title 10 of the Code of Federal Regulations is corrected by making the following correcting amendments:

#### PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

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

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

■ 2. Section 430.23 is amended by revising paragraphs (j)(1)(i) introductory text and (ii) introductory text to read as follows:

**§ 430.23 Test procedures for the measurement of energy and water consumption.**

\* \* \* \* \*

(j) \* \* \*

(1) \* \* \*

(i) When using appendix J1 (see the note at the beginning of appendix J1),

\* \* \* \* \*

(ii) When using appendix J2 (see the note at the beginning of appendix J2),

\* \* \* \* \*

[FR Doc. 2012-9841 Filed 4-23-12; 8:45 am]

BILLING CODE 6450-01-P

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

[Docket No. FAA-2011-1325; Directorate Identifier 2010-NM-250-AD; Amendment 39-17014; AD 2012-07-08]

RIN 2120-AA64

**Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Airplanes**

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

**ACTION:** Final rule.

**SUMMARY:** We are superseding an existing airworthiness directive (AD) for all EMBRAER Model ERJ 170 airplanes. That AD currently requires revising the Airworthiness Limitations Section (ALS) of the Instructions for Continued Airworthiness (ICA) to incorporate new structural inspection requirements. Since we issued that AD, during full scale fatigue testing, cracks were found in certain structural components of the airplane. Analysis of these cracks resulted in the manufacturer modifying the ALS of EMBRAER 170 Maintenance Review Board Report (MRBR), to include new inspections tasks, or modifying the current tasks and their respective thresholds and intervals. This new AD requires revising the maintenance program to incorporate new or revised structural inspection requirements. We are issuing this AD to detect and correct fatigue cracking which could result in the loss of structural integrity of the airplane.

**DATES:** This AD becomes effective May 29, 2012.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of May 29, 2012.

The Director of the Federal Register approved the incorporation by reference

of certain other publications listed in this AD as of July 6, 2010 (75 FR 30284, June 1, 2010).

**ADDRESSES:** You may examine the AD docket on the Internet at <http://www.regulations.gov> or in person at the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Cindy Ashforth, Aerospace Engineer, International Branch, ANM-116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98057-3356; telephone 425-227-2768; fax 425-227-1320.

**SUPPLEMENTARY INFORMATION:**

**Discussion**

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on December 29, 2011 (76 FR 81894), and proposed to supersede AD 2010-11-13, Amendment 39-16318 (75 FR 30284, June 1, 2010). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

During the airplane full scale fatigue test, cracks were found in some structural components of the airplane. Analysis of these cracks resulted in modifications on the Airworthiness Limitation Section (ALS) of Embraer ERJ 170 Maintenance Review Board Report (MRBR), to include new inspections tasks or modification of existing ones and its respective thresholds and intervals.

Failure to inspect these structural components, according to the new/revised tasks, thresholds and intervals, could prevent a timely detection of fatigue cracking. These cracks, if not properly addressed, could adversely affect the structural integrity of the airplane.

\* \* \* \* \*

The required action is revising the maintenance program to incorporate new structural inspection requirements. You may obtain further information by examining the MCAI in the AD docket.

**Comments**

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (76 FR 81894, December 29, 2011) or on the determination of the cost to the public.

**Explanation of Changes Made to This AD**

We have revised certain headers throughout this AD. We have also redesignated Note 1 of the NPRM (76 FR 81894, December 29, 2011) as paragraph

(c)(2) of this AD, and paragraph (c) of the NPRM as paragraph (c)(1) of this AD. These changes have not changed the intent of this AD.

**Conclusion**

We reviewed the relevant data and determined that air safety and the public interest require adopting the AD with the changes described previously—and minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM (76 FR 81894, December 29, 2011) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (76 FR 81894, December 29, 2011).

**Costs of Compliance**

We estimate that this AD will affect about 166 products of U.S. registry.

The actions that are required by AD 2010-11-13, Amendment 39-16318 (75 FR 30284, June 1, 2010), and retained in this AD take about 1 work-hour per product, at an average labor rate of \$85 per work hour. Based on these figures, the estimated cost of the currently required actions is \$85 per product.

We estimate that it will take about 1 work-hour per product to comply with the new basic requirements of this AD. The average labor rate is \$85 per work-hour. Based on these figures, we estimate the cost of this AD to the U.S. operators to be \$14,110, or \$85 per product.

**Authority for This Rulemaking**

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. "Subtitle VII: Aviation Programs," describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in "Subtitle VII, Part A, Subpart III, Section 44701: General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

**Regulatory Findings**

We determined that this AD will not have federalism implications under