§ 1003.19 Custody/bond.

* * * * *

(i) *Stay of custody order pending appeal by the government—*

(1) *General discretionary stay authority.* The Board of Immigration Appeals (Board) has the authority to stay the order of an immigration judge redetermining the conditions of custody of an alien when the Department of Homeland Security appeals the custody decision or on its own motion. DHS is entitled to seek a discretionary stay (whether or not on an emergency basis) from the Board in connection with such an appeal at any time.

(2) *Automatic stay in certain cases.* In any case in which DHS has determined that an alien should not be released or has set a bond of $10,000 or more, any order of the immigration judge authorizing release (on bond or otherwise) shall be stayed upon DHS's filing of a notice of intent to appeal the custody redetermination (Form EOIR–43) with the immigration court within one business day of the order, and, except as otherwise provided in 8 CFR 1003.6(c), shall remain in abeyance pending decision of the appeal by the Board. The decision whether or not to file Form EOIR–43 is subject to the discretion of the Secretary.

Dated: September 25, 2006.

Alberto R. Gonzales,

Attorney General.

[FR Doc. E6–16106 Filed 9–29–06; 8:45 am]

BILLING CODE 4410–30–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

10 CFR Part 420

RIN 1904–AB63

State Energy Program

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

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) is publishing a final rule that amends the State Energy Program regulations to incorporate certain changes made to the DOE-administered formula grant program by the Energy Policy Act of 2005 (EPACT 2005).

DATES: This rule is effective November 1, 2006.

FOR FURTHER INFORMATION CONTACT: Eric W. Thomas, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, State Energy Program, EE–2K, 1000 Independence Avenue, SW., Washington, DC 20585–0121, (202) 586–2242, e-mail: *eric.thomas@ee.doe.gov,* or Chris Calamita, Esq., U.S. Department of Energy, Office of the General Counsel, Forrestal Building, GC–72, 1000 Independence Avenue, SW., Washington, DC 20585–0121, (202) 586–1777, e-mail: *Christopher.Calamita@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Section 123 of the Energy Policy Act of 2005 (EPACT 2005) (Pub. L. 109–58) amended Title III, Part D of the Energy Policy and Conservation Act (EPCA) (Pub. L. 94–163), which pertains to State energy conservation plans. The submission of such plans is required for participation in the DOE State Energy Program for providing formula grants to States for a wide variety of energy efficiency and renewable energy initiatives. This final rule amends the DOE State Energy Program regulations in Part 420 of Title 10 of the Code of Federal Regulations to incorporate the EPACT 2005 amendments.

Section 123 of EPACT 2005 amended section 362 of EPCA (42 U.S.C. 6322) to provide, in a new subsection (g), that the Secretary of Energy shall, at least once every three years, invite the Governor of each State that has submitted a State energy conservation plan to DOE to review and, if necessary, revise the State plan. EPACT 2005 provides that in conducting this review, the Governor should consider the energy conservation plans of other States within the region, and identify opportunities and actions that may be carried out in pursuit of common energy conservation goals. With the issuance of this final rule, DOE amends 10 CFR 420.13 to include a new paragraph (d) that sets forth this new statutory requirement.

Section 123 of EPACT 2005 also amended section 364 of EPCA (42 U.S.C. 6324) to provide that the energy conservation goal in State plans must call for a 25 percent or more improvement in the efficiency of State energy use in calendar year 2012 as compared to calendar year 1990. Previously, EPCA required a State energy conservation plan goal consisting of a 10 percent or more improvement in energy efficiency in calendar year 2000, as compared to calendar year 1990. DOE is amending 10 CFR 420.13(b)(3) to include the new efficiency goal.

II. Rationale for Final Rulemaking

DOE is issuing today's action as a final rule, without prior notice and opportunity for public comment, because DOE is incorporating the EPACT 2005 revisions to the State Energy Program without substantive change and this action is non-discretionary. In this circumstance, the provision of notice and an opportunity for comment is unnecessary.

III. Procedural Requirements

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

This final rule is not a ''significant regulatory action'' under section 3(f)(1) of Executive Order 12866, ''Regulatory Planning and Review.'' 58 FR 51735 (October 4, 1993). Accordingly, this 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, (68 FR 7990) to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. The Department has made its procedures and policies available on the Office of General Counsel's Web site: *http://www.gc.doe.gov.* Because this final rule consists of regulatory amendments for which a general notice of proposed rulemaking is not required, the Regulatory Flexibility Act does not apply.

C. Review Under the Paperwork Reduction Act of 1995

This rulemaking will impose no new information or record keeping 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.5 of Appendix A to Subpart D, 10 CFR

part 1021, which applies to rulemaking interpreting or amending 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.

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

Executive Order 13132, ''Federalism,'' 64 FR 43255 (August 4, 1999), imposes certain requirements on 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). DOE examined this rule and determined that it does not preempt State law and 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 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 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) and (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 does not contain an intergovernmental mandate or a mandate that may result in the expenditure of $100 million or more in any year, so these requirements under the Unfunded Mandates Reform Act do not apply.

H. Review Under the Treasury and General Government Appropriations Act of 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). This final rule has been reviewed by DOE under the OMB and DOE guidelines and it has been 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 this final rule.

List of Subjects in 10 CFR Part 420

Energy conservation, Grant programs—energy, Technical assistance.

Issued in Washington, DC, on September 21, 2006.

Alexander A. Karsner,

Assistant Secretary, Energy Efficiency and Renewable Energy.

■ For the reasons set forth in the preamble, the Department of Energy amends chapter II of title 10 of the Code of Federal Regulations as set forth below:

PART 420—STATE ENERGY PROGRAM

■ 1. The authority citation for part 420 continues to read as follows:

Authority: Title III, part D, as amended, of the Energy Policy and Conservation Act (42 U.S.C. 6321 *et seq.*); Department of Energy Organization Act (42 U.S.C. 7101 *et seq.*)

■ 2. Section 420.13 of subpart B is amended by:

■ a. Revising paragraph (b)(3); and

■ b. Adding a new paragraph (d).

The revision and addition read as follows:

§ 420.13 Annual State applications and amendments to State plans.

* * * * *

(b) * * *

(3) With respect to financial assistance under this subpart, a goal, consisting of an improvement of 25 percent or more in the efficiency of use of energy in the State concerned in the calendar year 2012, as compared to the calendar year 1990, and may contain interim goals;

* * * * *

(d) The Secretary, or a designee, shall, at least once every three years from the submission date of each State plan, invite the Governor of the State to review and, if necessary, revise the energy conservation plan of such State. Such reviews should consider the energy conservation plans of other States within the region, and identify opportunities and actions that may be carried out in pursuit of common energy conservation goals.

[FR Doc. E6–16169 Filed 9–29–06; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–25713; Directorate Identifier 97–ANE–09; Amendment 39–14780; AD 97–06–13R1]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce plc Models RB211 Trent 892, 884, 877, 875, and 892B Series Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; rescission.

SUMMARY: This amendment rescinds airworthiness directive (AD) 97–06–13 for Rolls-Royce plc (RR) models RB211 Trent 892, 884, 877, 875, and 892B series turbofan engines. That AD requires inspecting and replacing certain angle gearbox and intermediate gearbox hardware, and on-going repetitive inspections of the magnetic chip detectors. That AD resulted from reports of loss of oil from the angle drive upper shroud tube, the intermediate gearbox housing, the external gearbox lower bevel box housing, and by reports of bearing failures. We intended the requirements of that AD to prevent loss of oil, which could cause an engine fire, and to prevent in-flight engine shutdowns and airplane diversions caused by oil loss and from bearing failures. Since we issued that AD, we determined that the inspections and replacements required by that AD are no longer required to correct an unsafe condition.

DATES: This AD becomes effective October 2, 2006.

ADDRESSES: You may examine the AD docket on the Internet at *http://dms.dot.gov* or in Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Christopher Spinney, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; telephone (781) 238–7175; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: The FAA proposed to amend 14 CFR part 39 by rescinding an existing AD, AD 97–06–13; Amendment 39–9970, for RR models RB211 Trent 892, 884, 877, 875, and 892B series turbofan engines. That AD requires inspecting and replacing certain angle gearbox and intermediate gearbox hardware, and on-going repetitive inspections of the magnetic chip detectors. We published the proposed NPRM in the **Federal Register** on April 5, 2006 (71 FR 17035).

Examining the AD Docket

You may examine the docket that contains the AD, any comments received, and any final disposition in person at the Docket Management Facility Docket Offices between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone (800) 647–5227) is located on the plaza level of the Department of Transportation Nassif Building at the street address stated in **ADDRESSES**. Comments will be available in the AD docket shortly after the DMS receives them.

Comments

We provided the public the opportunity to comment on the proposed NPRM rescission. We received no comments on the proposal.

Docket Number Change

We are transferring the docket for this AD to the Docket Management System as part of our on-going docket management consolidation efforts. The new Docket No. is FAA–2006–25713. The old Docket No. became the Directorate Identifier, which is 97–ANE–09. This final rule might get logged into the DMS docket, ahead of the previously collected documents from the old docket file, as we are in the process of sending those items to the DMS.

Conclusion

We have carefully reviewed the available data and determined that air safety and the public interest require adopting the AD rescission as proposed. We are rescinding this AD because we determined that we no longer need the inspections and replacements required