

Proposed Rules

Federal Register

Vol. 74, No. 12

Wednesday, January 21, 2009

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF ENERGY

10 CFR Part 430

[Docket No. EERE-2008-BT-TP-0007]

RIN 1904-AB77

Energy Conservation Program: Test Procedures for Fluorescent Lamp Ballasts in Standby Mode

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

ACTION: Notice of proposed rulemaking and public meeting.

SUMMARY: The U.S. Department of Energy (DOE) is proposing amendments to its test procedures for fluorescent lamp ballasts under the Energy Policy and Conservation Act. These amendments address the measurement of energy consumption of fluorescent lamp ballasts in the standby and off modes. DOE is also announcing a public meeting to receive comment on the issues presented in this notice.

DATES: DOE will hold a public meeting on February 2, 2009 beginning at 10:30 a.m. in Washington, DC. DOE must receive requests to speak at the meeting before 4 p.m., January 26, 2009. DOE must receive a signed original and an electronic copy of statements to be given at the public meeting before 4 p.m., January 26, 2009.

DOE will accept comments, data, and information regarding this notice of proposed rulemaking (NOPR) before or after the public meeting, but no later than April 6, 2009. See Section V, "Public Participation," of this NOPR for details.

ADDRESSES: The public meeting will be held at the U.S. Department of Energy, Forrestal Building, Room 8E-089, 1000 Independence Avenue, SW., Washington, DC 20585-0121. To attend the public meeting, please notify Ms. Brenda Edwards at (202) 586-2945. Please note that foreign nationals participating in the public meeting are subject to advance security screening procedures, requiring a 30-day advance

notice. If a foreign national wishes to participate in the workshop, please inform DOE of this fact as soon as possible by contacting Ms. Brenda Edwards at (202) 586-2945 so that the necessary procedures can be completed.

Any comments submitted must identify the NOPR on Test Procedures for Fluorescent Lamp Ballasts in Standby Mode, and provide the docket number EERE-2008-BT-TP-0007 and/or Regulation Identifier Number (RIN) 1904-AB77. Comments may be submitted using any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *E-mail:* Ballasts_Standby.Rulemaking@hq.doe.gov. Include the docket number EERE-2008-BT-TP-0007 and/or RIN 1904-AB77 in the subject line of the message.

- *Postal Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE-2J, 1000 Independence Avenue, SW., Washington, DC 20585-0121. Please submit one signed paper original.

- *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, 6th Floor, 950 L'Enfant Plaza, SW., Washington, DC 20024. Telephone: (202) 586-2945. Please submit one signed paper original.

For detailed instructions on submitting comments and additional information on the rulemaking process, see Section V, "Public Participation," of this document.

Docket: For access to the docket to read background documents or comments received, visit the U.S. Department of Energy, 6th Floor, 950 L'Enfant Plaza, SW., Washington, DC 20024, (202) 586-2945, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Please call Ms. Brenda Edwards at (202) 586-2945 for additional information regarding visiting the Resource Room.

FOR FURTHER INFORMATION CONTACT: Mrs. Linda Graves, 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) 586-1851. E-mail: Linda.Graves@ee.doe.gov. In the Office of the General Counsel, contact Ms.

Francine Pinto, U.S. Department of Energy, Office of the General Counsel, GC-72, 1000 Independence Avenue, SW., Washington, DC 20585. Telephone: (202) 586-9507. E-mail:

Francine.Pinto@hq.doe.gov.

For additional information on how to submit or review public comments and on how to participate in the public meeting, contact Ms. Brenda Edwards, 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) 586-2945. E-mail: Brenda.Edwards@ee.doe.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Authority and Background
II. Summary of the Proposal
III. Discussion
A. Definitions
1. Active Mode
2. Standby Mode
3. Off Mode
B. Scope of Applicability
1. Types of Ballasts Covered
2. Effective Date
3. Relationship to Other Rulemakings
C. Proposed Approach
1. Overview of Test Procedure
2. Definitions
3. Test Conditions
4. Test Method and Measurements
5. Test Procedure Measurements and Burden
IV. Regulatory Review
A. Executive Order 12866
B. National Environmental Policy Act
C. Regulatory Flexibility Act
D. Paperwork Reduction Act
E. Unfunded Mandates Reform Act of 1995
F. Treasury and General Government Appropriations Act, 1999
G. Executive Order 13132
H. Executive Order 12988
I. Treasury and General Government Appropriations Act, 2001
J. Executive Order 13211
K. Executive Order 12630
L. Section 32 of the Federal Energy Administration Act of 1974
V. Public Participation
A. Attendance at Public Meeting
B. Procedure for Submitting Requests To Speak
C. Conduct of Public Meeting
D. Submission of Comments
E. Issues on Which DOE Seeks Comment
VI. Approval of the Office of the Secretary

I. Authority and Background

Title III of the Energy Policy and Conservation Act (42 U.S.C. 6291 *et*

seq.; EPCA or the Act) sets forth a variety of provisions designed to improve energy efficiency. Part A of Title III (42 U.S.C. 6291–6309) establishes the “Energy Conservation Program for Consumer Products Other Than Automobiles,” which covers consumer products and certain commercial products (all of which are referred to below as “covered products”), including fluorescent lamp ballasts (ballasts). (42 U.S.C. 6291(1)–(2) and 6292(a)(13)).

Under the Act, the overall program consists essentially of the following parts: Testing, labeling, and Federal energy conservation standards. The testing requirements consist of test procedures, prescribed under EPCA, that manufacturers of covered products must use as the basis for certifying to the U.S. Department of Energy (DOE) that their products comply with EPCA energy conservation standards and for representing the energy efficiency of their products.

Section 323 of EPCA (42 U.S.C. 6293) sets forth generally applicable criteria and procedures for DOE’s adoption and amendment of such test procedures. It states, for example, that “[a]ny test procedures prescribed or amended under this section shall be reasonably designed to produce test results which measure energy efficiency, energy use, * * * or estimated annual operating cost of a covered product during a representative average use cycle or period of use, as determined by the Secretary [of Energy], and shall not be unduly burdensome to conduct.” (42 U.S.C. 6293(b)(3)) In addition, if DOE determines that a test procedure should be prescribed or amended, it must publish proposed test procedures and offer the public an opportunity to present oral and written data, views, and arguments with respect to such procedures with a comment period no less than 60 days and not to exceed 270 days. (42 U.S.C. 6293(b)(2)) Finally, in any rulemaking to amend a test procedure, DOE must determine “to what extent, if any, the proposed test procedure would alter the measured energy efficiency * * * of any covered product as determined under the existing test procedure.” (42 U.S.C. 6293(e)(1)) If DOE determines that the amended test procedure would alter the measured efficiency of a covered product, DOE must amend the applicable energy conservation standard accordingly. (42 U.S.C. 6293(e)(2))

For ballasts, the test procedures must be “in accord with ANSI Standard C82.2–1984 or other test procedures determined appropriate by the Secretary.” (42 U.S.C. 6293(b)(5)) DOE’s

existing test procedures for ballasts, which it adopted pursuant to the above provisions, appear at Title 10 of the Code of Federal Regulations (CFR) part 430, subpart B, appendix Q (“Uniform Test Method for Measuring the Energy Consumption of Fluorescent Lamp Ballasts”).

The Energy Independence and Security Act of 2007 (Pub. L. 110–140; EISA) was enacted December 19, 2007, and contains numerous amendments to EPCA. These include a requirement that for each covered product for which DOE’s current test procedures do not fully account for standby mode and off mode energy consumption, DOE must amend the test procedures to include standby mode and off mode energy consumption into the overall energy efficiency, energy consumption, or other energy descriptor for that product, or, if that is technically infeasible, DOE must prescribe a separate standby mode and off mode energy use test procedure if technically feasible. (EPCA section 325(gg)(2)(A); 42 U.S.C. 6295(gg)(2)(A)) Any such amendment must consider the most current versions of International Electrotechnical Commission Standards 62301 and 62087. *Id.* For fluorescent lamp ballasts, EPCA section 325(gg)(2)(B)(ii) requires that DOE prescribe any such amendment to the test procedure for fluorescent lamp ballasts by March 31, 2009. (42 U.S.C. 6295(gg)(2)(B)(ii)) DOE is issuing this notice pursuant to this requirement.

In a separate rulemaking proceeding, DOE is considering energy conservation standards for fluorescent lamp ballasts (docket number EERE–2007–BT–STD–0016; hereinafter referred to as the “ballast standards rulemaking”). DOE initiated that rulemaking by publishing a **Federal Register** notice announcing a public meeting and availability of the framework document (“Energy Efficiency Program for Consumer Products: Public Meeting and Availability of the Framework Document for Fluorescent Lamp Ballasts,”) on January 22, 2008. 73 FR 3653. One of the issues DOE raised for comment in the ballast standards rulemaking framework document related to DOE’s obligation to develop a test procedure that measures the energy consumed by fluorescent lamp ballasts in standby mode and off mode. Specifically, item two from the framework document reads:

Item 2. DOE welcomes comment on the standby power provisions from EISA 2007 and issues arising therefrom, including: (a) How DOE should modify its test procedure for fluorescent lamp ballasts; (b) Which covered fluorescent lamp ballasts are subject to standby mode and off mode energy use?;

and (c) How DOE should take standby mode and off mode energy consumption into its analysis for the energy conservation standard?

On February 6, 2008, DOE held a public meeting in Washington, DC, to discuss the framework document for the fluorescent lamp ballast energy conservation standards rulemaking. Attendees discussed the issue of measuring standby mode and off mode. In addition, DOE received one written comment concerning standby mode and off mode testing during the comment period for the framework document. (National Electrical Manufacturers Association (NEMA), No. 11 at pp. 1–2)¹ All comments on the ballast standards rulemaking regarding the measurement of standby mode and off mode energy consumption are discussed in section III of this notice.

Finally, the amendments contained in section 310(3) of EISA insert new subsection (gg) into section 325 of EPCA, and in part directs that any final rule establishing or revising a standard for a covered product, adopted after July 1, 2010, shall incorporate standby mode and off mode energy use into a single amended new standard. (EPCA section 325(gg); 42 U.S.C. 6295(gg)(3)(A)) This new section applies to the ballast standards rulemaking (EERE–2007–BT–STD–0016), scheduled to be completed in 2011. However, pursuant to new section 325(gg)(2)(C) of EPCA (42 U.S.C. 6295(gg)(2)(C)), the amendments proposed for the test procedure will not apply to the existing energy conservation standards for fluorescent lamp ballasts. Instead, today’s proposed test procedure is laying the groundwork for DOE to measure and take into consideration energy consumed in standby mode and off mode following the establishment of amended ballast standards in a future rulemaking.

II. Summary of the Proposal

This notice of proposed rulemaking (NOPR) proposes to modify DOE’s current test procedures for fluorescent lamp ballasts in order to address the statutory requirement to expand test

¹ “NEMA, No. 11 at p. 1–2” refers to (1) a statement that was submitted by the National Electrical Manufacturers Association and is recorded in the Resource Room of the Building Technologies Program in the docket under “Energy Conservation Program: Test Procedures for Fluorescent Lamp Ballasts in Standby Mode,” Docket Number EERE–2008–BT–TP–0007, as comment number 11; and (2) a passage that appears on page 1 and 2 of that statement. Elsewhere in this notice, there are citations to the public meeting transcript, such as: (Public Meeting Transcript, No. 9 at pp. 68–69). In this citation, the transcript is recorded in the same docket as the ninth entry; and the stakeholder statement cited appearing on pages 68–69.

procedures to incorporate a measure of standby mode and off mode energy consumption.

In the context of fluorescent lamp ballasts, DOE reviewed the definitions of standby mode and off mode contained in EPCA section 325(gg)(1). (42 U.S.C. 6295(gg)(1)) DOE found that while it was possible for fluorescent lamp ballasts to operate in standby mode, the off mode condition does not apply to fluorescent lamp ballasts, because it addresses a mode of energy use in which fluorescent lamp ballasts do not operate. For this reason, today's notice proposes a test method for measuring power consumed in standby mode (see section III.C) and provides an opportunity for the public to comment on DOE's rationale for why off mode does not apply (see section III.A.3).²

After studying the market of commercially available fluorescent ballasts and the definition of standby mode, DOE is proposing to interpret this mode as only applying to certain ballasts under certain operating conditions. DOE believes standby mode only applies to ballasts that are active components of lighting control systems, meaning the ballasts incorporate electronics that can receive a signal from a control system, and can respond to that signal by adjusting light output. These ballasts enter standby mode when the ballast is instructed to reduce lamp light output to zero percent (*i.e.*, providing no active mode function). In this situation, the ballast is connected to a main power source and offers a user-oriented feature by facilitating the activation or deactivation of its main function (*i.e.*, operating the lamp to produce light) by remote switch, or internal sensor (*i.e.*, the control system). (42 U.S.C. 6295(gg)(1)(A)(iii)) If, on the other hand, these same ballasts were dimmed to a level less than full output but greater than zero percent, they could not be in standby mode because they would be providing a ballast's main function (*i.e.*, operating a lamp to produce light). (42 U.S.C. 6295(gg)(1)(A)(i))

The amendments proposed in this notice are based on provisions

² DOE first raised this issue in its framework document, published for the energy conservation standards rulemaking on fluorescent lamp ballasts. The framework document at page 4 stated that "[f]luorescent lamp ballast[s] never meet the definition of 'off mode.'" DOE continued by stating that off mode, as defined by EISA, does not apply to ballasts. A copy of the framework document published in January 2008 is available at: http://www1.eere.energy.gov/buildings/appliance_standards/residential/pdfs/ballast_framework_011408.pdf.

The publication of this framework document was announced in the **Federal Register** at 73 FR 3653.

contained and adapted from the current ANSI testing standard, ANSI Standard C82.2–2002. It should be noted that DOE's existing test procedure for fluorescent lamp ballasts³ measures the input power for active mode using ANSI Standard C82.2–1984. However, the amendments proposed in this notice are based on measuring input power for the standby mode test procedure using the current ANSI testing standard, ANSI Standard C82.2–2002. In addition, DOE believes that the only difference between the two test procedures relates to the interference of testing instrumentation. Specifically, DOE believes the input power measurement of C82.2–2002 reduces the interference of instrumentation on the input power measurement as compared to C82.2–1984. However, DOE also believes that because modern instrumentation does not significantly interfere with input power measurements, the differences between the input power measurements of the two test procedures are negligible.

DOE is not proposing to update the fluorescent lamp ballast active mode test procedure references of ANSI Standard C82.2–1984 contained in appendix Q to subpart B of part 430 because DOE is considering revising the fluorescent lamp ballast active mode test procedure in a subsequent rulemaking as discussed in the framework document⁴ and at the public meeting. (Public Meeting Transcript, No. 9 at pp. 11–12 and 69–78) Thus, the amendments proposed in today's notice only append provisions to sections 1, 2 and 3 of appendix Q to subpart B of part 430 to address new definitions, test conditions, and methods for measuring standby mode power consumption. Today's proposal does not affect the existing test procedure or energy conservation standards in place for fluorescent lamp ballasts, because DOE does not currently regulate standby mode power consumption of fluorescent lamp ballasts.

EPCA also requires that DOE determine to what extent, if any, the proposed test procedure would alter the measured energy efficiency. (42 U.S.C.

³ DOE's current test procedure for fluorescent lamp ballasts is contained in appendix Q to subpart B of part 430—"Uniform Test Method for Measuring the Energy Consumption of Fluorescent Lamp Ballasts."

⁴ The discussion concerning revising the test procedure for fluorescent lamp ballasts occurs on pages 7 through 9 of the framework document. A copy of the framework document published in January 2008 is available at: http://www1.eere.energy.gov/buildings/appliance_standards/residential/pdfs/ballast_framework_011408.pdf.

The publication of this framework document was announced in the **Federal Register** at 73 FR 3653.

6293(e)(1)) DOE notes that the test procedure amendments proposed in this notice would not change the measure of the ballast efficacy factor, the metric on which the current energy conservation standard is based. Thus, the measure of this proposed test procedure would not alter the measured fluorescent lamp ballast energy efficiency.

As amended, EPCA provides that amendments to the test procedures to include standby mode and off mode energy consumption shall not be used to determine compliance with previously established standards. (42 U.S.C. 6295(gg)(2)(C)) Thus, the proposed inclusion of a standby mode test procedure in today's notice will not affect a manufacturer's ability to demonstrate compliance with the existing energy conservation standards for fluorescent lamp ballasts. Indeed, the standby mode test procedure need not be performed to determine compliance with the statutory energy conservation standards for fluorescent lamp ballasts because the existing statutory standards do not account for standby mode power consumption. The Department's test procedures for measuring standby mode would become effective, in terms of adoption into the Code of Federal Regulations, 30 days after the date of publication in the **Federal Register** of the final rule in this test procedures rulemaking.

DOE proposes this test procedure to assist in its evaluation of fluorescent lamp ballast standby mode energy consumption as part of its ballast standards rulemaking which may establish future energy conservation standards for ballasts. DOE intends to consider standby mode energy consumption in that rulemaking, to comply with the EPCA requirement that DOE incorporate standby mode into a single amended or new standard, pursuant to EPCA section 325(gg)(2)(A); (42 U.S.C. 6295(gg)(2)(A)). If DOE adopts energy conservation standards for standby mode in that rulemaking, manufacturers would be required to use the test procedures' standby mode provisions to demonstrate compliance on the effective date of a final rule establishing amended standards for fluorescent lamp ballasts. The introductory sentence in proposed subsection 2.2 of appendix Q to subpart B of part 430 would be removed in a notice of final rulemaking establishing amended standards for fluorescent lamp ballasts.

III. Discussion

A. Definitions

EPCA section 325(gg) lists definitions for three modes of energy consumption that are applicable to a broad set of consumer products and commercial equipment, including fluorescent lamp ballasts. (42 U.S.C. 6295(gg)(1)(A)) The EPCA definitions of active mode, standby mode, and off mode are discussed in this section, and their applicability to fluorescent lamp ballasts is addressed.

1. Active Mode

Although DOE is not directed to adopt a test procedure for active mode in section 325(gg) of EPCA, a review of the definition of active mode and DOE's interpretation of its meaning is necessary to clarify the definition of off mode, which uses the term active mode.

EPCA section 325(gg)(1)(A)(i) defines active mode as "the condition in which an energy-using product—(I) is connected to a main power source; (II) has been activated; and (III) provides 1 or more main functions." (42 U.S.C. 6295(gg)(1)(A)(i)) Focusing on the third part of this definition, DOE believes that the main function of a fluorescent lamp ballast is to operate one or more fluorescent lamps. DOE understands that there are many different types of ballasts, but the *main function* common to all of them is that they are designed to operate fluorescent lamps. Therefore, DOE interprets the term active mode to mean a ballast that is operating one or more fluorescent lamps (*i.e.*, providing and regulating current). DOE does not discriminate between dimmable and non-dimmable ballasts when considering active mode; rather DOE interprets active mode as being applicable to any amount of rated system light output (*i.e.*, greater than zero percent of the rated system light output). Non-dimmable ballasts would operate the lamp or lamps in active mode at 100 percent of the rated system light output. Dimmable ballasts can vary the system light output. For dimmable ballasts, DOE interprets greater than zero percent of rated system light output to be active mode. This is because the main function of a ballast is to operate a fluorescent lamp. Whether the light output is any percentage greater than zero of the rated system light output, the ballast is operating the lamp. DOE invites comment on this interpretation of active mode.

2. Standby Mode

EPCA section 325(gg)(1)(A)(iii) defines standby mode as "the condition in which an energy-using product—(I) is

connected to a main power source; and (II) offers 1 or more of the following user-oriented or protective functions: (aa) To facilitate the activation or deactivation of other functions (including active mode) by remote switch (including remote control), internal sensor, or timer. (bb) Continuous functions, including information or status displays (including clocks) or sensor-based functions." (42 U.S.C. 6295(gg)(1)(A)(iii)) Two key aspects of this definition relate to fluorescent lamp ballasts: (1) Connected to a main power source and (2) offering the activation or deactivation of other functions by remote switch or internal sensor.

The definition of standby mode in part requires that ballasts be connected to their main power source. (42 U.S.C. 6295(gg)(1)(A)(iii)) This "connected" requirement effectively removes the majority of ballasts from having standby mode energy consumption because most ballasts are operated with on-off switches, motion sensors, circuit breakers, or other relays that disconnect main power to switch off the ballast. Once the main power source is disconnected from the ballast, the ballast ceases to operate the lamps (*i.e.*, the system light output falls to zero), and the ballast consumes no energy. The National Electrical Manufacturers Association (NEMA) touches on this point in its written comments in response to the framework document for the ballast standards rulemaking. NEMA stated that the "vast majority" of fluorescent lamp ballasts do not consume power when they are switched off. NEMA finds it is unclear whether these ballasts would have a standby mode, given the definition in the statute. (NEMA, No. 11 at p. 2) DOE agrees with this comment, and believes that those ballasts that are controlled by disconnecting the main power source from the ballast never operate in standby mode.

The definition of standby mode also in part contains an element that standby mode applies to energy-using products that facilitate the activation or deactivation of other functions by remote switch, internal sensor, or timer. (42 U.S.C. 6295(gg)(1)(A)(iii)(II)(aa)) DOE interprets this condition as applying only to ballasts that are designed to operate in, or function as, a lighting control system where auxiliary control devices send signals to the ballast. An example of this ballast would be a ballast that incorporates a digital addressable lighting interface (DALI). A ballast that incorporates a lighting interface like DALI (whether dimming or not) has an electronic

circuit enabling the ballast to communicate with, and receive instructions from, the lighting interface (*e.g.*, DALI) system. These instructions could tell the ballast to go into active mode or to adjust the light output to zero-percent output. In this latter condition, the ballast is no longer producing any light from the fluorescent lamps (*i.e.*, no longer in active mode). Thus, at zero light output, the ballast is standing by, connected to a main power source while it awaits instructions from the lighting control system to initiate an arc and produce light again.

NEMA indicated in its comments that ballasts that are part of a lighting control system (*e.g.*, digitally addressable dimming ballasts) would be the only candidates for operating in standby mode. (NEMA, No. 11 at p. 2) As described above, DOE agrees with this comment from NEMA that standby mode, as defined by the statute, exists for ballasts that operate on a lighting control system which individually addresses the ballast and offers remote activation or deactivation functions. In fact, the only fluorescent lamp ballasts DOE is aware of that meet the statutory requirements for standby mode are those ballasts that are an active component of a lighting control system. DOE invites further comment from stakeholders on its interpretation of standby mode for fluorescent lamp ballasts.

3. Off Mode

EPCA section 325(gg)(1)(A)(ii) defines off mode as "the condition in which an energy-using product—(I) is connected to a main power source; and (II) is not providing any standby or active mode function." (42 U.S.C. 6295(gg)(1)(A)(ii)) DOE considered this definition in the context of fluorescent lamp ballasts and believes that off mode does not apply to any fluorescent lamp ballast (*i.e.*, dimmable or non-dimmable) because off mode describes a condition that commercially available ballasts do not attain.

The definition of off mode requires that ballasts be connected to a main power source and not provide any standby or active mode function. (42 U.S.C. 6295(gg)(1)(A)(ii)) DOE does not believe it is possible for ballasts to meet these criteria. As described above, active mode encompasses conditions in which the ballast operates a lamp or lamps to produce greater than zero percent of the rated system light output. Standby mode applies to the situation in which the ballast is connected to a main power source and is not operating a lamp or lamps (*i.e.*, the lamps have zero percent light output). Therefore, when

connected to a main power source, the functions provided in standby mode and active mode already encompass every possible level of ballast operation, from zero to greater than zero percent of system rated light output. There is no condition in which the ballast is connected to the main power source and it is not already accounted for in either active mode or standby mode. For this reason, ballasts fail to meet the second requirement of the EPCA definition of off mode, that it is not providing any standby or active mode function. (42 U.S.C. 6295(gg)(1)(A)(ii)(II))

Furthermore, the power consumption measurement of the ballast in standby mode already captures the device in its lowest power-consuming condition. This means that in standby mode, the ballast is connected to a main power source but is not providing any output to the lamps (*i.e.*, zero percent light output). Disconnecting the ballast from the main power source by a switch, for example, would bring the ballast to a lower state of energy use (*i.e.*, zero percent power consumption), and would fail to meet the first criterion of the off-mode definition, that the ballast be connected to a main power source. (42 U.S.C. 6295(gg)(1)(A)(ii)(I))

For some products, DOE is interpreting off mode as a condition in which the user may choose to operate a manual switch mounted on the device to enable off mode, which would represent the lowest energy state. However this condition does not apply to ballasts, and DOE is not aware of any ballasts manufactured with a manual switch mounted on the housing. Instead, ballasts are usually inaccessible to end-users, and do not incorporate manual switches or other features that users may operate to affect the mode of the ballast. Thus, the lowest energy state of a fluorescent lamp ballast is that which is measured in standby mode, which by definition cannot also constitute off mode.

For all of the reasons discussed above, DOE is unable to identify a situation in which a ballast would be in off mode. Therefore, DOE is proposing in today's notice that off mode be considered inapplicable to fluorescent lamp ballasts. Should circumstances change in the future, DOE may choose to revisit this interpretation and propose a test method for measuring off mode. DOE invites comment on its proposal not to incorporate a test method for measuring off mode energy consumption for ballasts at this time.

B. Scope of Applicability

1. Types of Ballasts Covered

DOE's coverage authority extends beyond those ballasts for which it has set standards. According to the definition set forth in 42 U.S.C. 6291(29)(A), "[t]he term 'fluorescent lamp ballast' means a device which is used to start and operate fluorescent lamps by providing a starting voltage and current and limiting the current during normal operation." This definition is broad, and encompasses many types of ballasts that are then later excluded from standards, such as dimming ballasts. (42 U.S.C. 6295(g)(6); 42 U.S.C. 6295(g)(8)(C)) That DOE does not have energy conservation standards in place for certain types of ballasts does not prevent DOE from considering these ballasts in the context of standby mode.

NEMA commented that it believes that dimming ballasts (and therefore digitally addressable dimming ballasts) are outside the scope of DOE's energy conservation standards rulemaking. (NEMA, No. 11 at p. 2 and Public Meeting Transcript, No. 9 at pp. 68–69) To establish a test procedure that measures standby mode power consumption, DOE finds no reason to exclude dimming ballasts from consideration. NEMA is correct that ballasts designed for dimming to 50 percent or less of their maximum output are not currently subject to DOE's current energy conservation standards. See 10 CFR 430.32(m)(2)(i). However, there is no statutory definition or other guidance directing DOE to exclude dimming ballasts from consideration under an energy conservation standards rulemaking that is evaluating fluorescent lamp ballasts. Indeed, fluorescent lamp ballasts as defined in section 321 of EPCA include all fluorescent ballasts designed to start and operate lamps, and EPCA does not differentiate between or exclude either steady-state or dimming ballasts. (42 U.S.C. 6291(29)(A)) DOE will formally address this comment from NEMA in its energy conservation standards rulemaking, but for the purposes of this test procedure to measure standby mode power consumption, DOE is considering dimming ballasts as part of its scope of coverage.

As discussed in section III.A.2 of this notice, DOE is considering standby mode as only applying to ballasts that incorporate some kind of lighting control system interface, as DOE believes these ballasts are the only ballasts that satisfy the EPCA definition of standby mode in that they are "connected to a main power source" and "facilitate the activation or

deactivation of other functions (including active mode) by remote switch (including remote control), internal sensor, or timer." (42 U.S.C. 6295(gg)(1)(A)(iii)) DOE understands that these ballasts are designed with circuitry that adds new features, including intelligent operation. As discussed above, one example of these ballasts would be a DALI-enabled ballast. DALI-enabled ballasts have internal circuitry that is fundamentally part of the ballast design that remains active and consumes energy, even when the ballast is not driving any lamps. DOE is unaware of any other types of ballasts that would have standby mode power consumption.

In addition, as discussed in section III.A.2, NEMA commented that digitally addressable dimming ballasts are the only candidates that might be considered subject to standby mode power consumption. (NEMA, No. 11 at p. 2) DOE agrees in part with this comment, noting that at this time, ballasts that incorporate some type of circuitry enabling them to operate on a lighting control system are the only ballasts that consume power when not operating fluorescent lamps and thus are the only ballasts to which standby mode applies. DOE notes, however, that it is technically feasible for both dimming ballasts and non-dimming ballasts to have standby mode power consumption if they are capable of being used as part of a lighting control system.

In summary, this test procedure would be applicable to any "fluorescent lamp ballast" as defined in section 321 of EPCA (42 U.S.C. 6291(29)(A)). Based on today's market, DOE believes that the ballasts subject to standby mode power measurements would be those that incorporate some electronic circuit enabling the ballast to communicate with and be part of a lighting control system. DOE also recognizes that standby mode can apply both to dimming ballasts and non-dimming ballasts. DOE invites comment on its proposal to interpret the scope of applicability of this test procedure to apply to all fluorescent lamp ballasts that incorporate an electronic circuit enabling the ballast to communicate with and be part of a lighting control system.

2. Effective Date

EPCA section 325(gg)(2)(B) requires that DOE complete development of this test procedure addressing standby mode and off mode for fluorescent lamp ballasts (*i.e.*, publish a final rule) by March 31, 2009. (42 U.S.C. 6295(gg)(2)(B)(ii)) DOE intends to meet this statutory deadline. The final rule of

this test procedure will become effective 30 days after its publication in the **Federal Register**. It should be noted that DOE does not currently have any energy conservation standards pertaining to standby mode (or off mode) power consumption and this rulemaking will not affect the ballast efficacy factor, the measure of energy conservation on which the current energy conservation standard is based. Therefore, this rule would not change how manufacturers measure and establish compliance with DOE's existing energy conservation standards for fluorescent lamp ballasts.

EPCA requires DOE to consider standby mode and off mode for all energy conservation final rules issued after July 1, 2010. (42 U.S.C. 6295(gg)(3)(A)) DOE initiated an energy conservation standard rulemaking for fluorescent lamp ballasts on January 22, 2008 with the publication of a framework document. 73 FR 3653. Because the final energy conservation standard rule is scheduled to be issued in June 2011⁵, after July 1, 2010, DOE must consider adopting standby and off mode energy conservation standards during that rulemaking. If energy conservation standards for standby mode are adopted in that rulemaking proceeding, manufacturers would be required to use the standby mode test procedure to demonstrate compliance of products manufactured after standby power energy conservation standards take effect. Any new energy conservation standard promulgated under that rulemaking would take effect five years after the effective date of the previous amended rule but only if that date is not within 3 years after the publication of the fluorescent ballast standards rulemaking final rule in June 2011. (42 U.S.C. 6295(g)(7)(C))

3. Relationship to Other Rulemakings

DOE is conducting two additional rulemakings on fluorescent lamp ballasts. As previously mentioned, DOE initiated a ballast energy conservation standards rulemaking in January 2008, which will evaluate whether to amend the standards in place for fluorescent lamp ballasts, including whether to add standby mode. That rulemaking will also consider extending coverage and standards to additional fluorescent lamp ballasts.

⁵ The framework document at page 11 states that this rulemaking is scheduled to complete in June 2011. A copy of the framework document published in January 2008 is available at: http://www1.eere.energy.gov/buildings/appliance_standards/residential/pdfs/ballast_framework_011408.pdf.

The publication of this framework document was announced in the **Federal Register** at 73 FR 3653.

The other rulemaking is a test procedure rulemaking concerning fluorescent lamp ballast active mode power consumption, scheduled to start in 2009, in which DOE will consider updating the references to industry standards (found in appendix Q to subpart B of 10 CFR part 430) to current versions of the industry standards. In today's standby mode power consumption test procedure NOPR, DOE is proposing to adopt the most current versions of the industry testing standards for measuring standby power by referencing ANSI Standard C82.2–2002. This will result in testing requirements that are different from the current active mode power consumption test procedure, which references ANSI Standard C82.2–1984.

C. Proposed Approach

1. Overview of Test Procedure

EPCA section 325(gg)(2)(A) in part directs DOE to establish test procedures to include standby mode, “taking into consideration the most current versions of Standards 62301 and 62087 of the International Electrotechnical Commission * * *” (42 U.S.C. 6295(gg)(2)(A)) IEC Standard 62087 applies only to audio, video, and related equipment, but not to lighting equipment. Thus, IEC Standard 62087 does not apply to this rulemaking, and DOE developed today's proposed rule consistent with procedures outlined in IEC Standard 62301 which applies generally to household electrical appliances. To develop a test method that would be familiar to fluorescent ballast manufacturers, DOE referenced language and methodologies presented in ANSI Standard C82.2–2002 (“For Lamp Ballasts—Method of Measurement of Fluorescent Lamp Ballasts”).

Today's proposed test procedure for measuring standby power consumption consists of the following steps: (1) A signal is sent to the ballast instructing it to reduce light output to zero percent; (2) the main input power to the ballast is measured; and (3) the power from the control signal path is measured in one of three ways, depending on how the signal from the control system is delivered to the ballast.

In sections 2 through 4 that follow, DOE discusses the language being proposed for insertion into section 1 of appendix Q to subpart B of 10 CFR part 430 (hereinafter, “appendix Q”).

2. Definitions

Section 1 of appendix Q provides definitions for terms used in the test procedure for fluorescent lamp ballasts. The list of terms was organized

alphabetically, but one term was out of place. In addition, DOE needs to insert six new terms to accommodate terminology used in the new test procedure being proposed today. The six new terms are as follows: AC control signal, ANSI Standard C82.2–2002, DC control signal, PLC control signal, standby power, and wireless control signal.

The definition for AC control signal states that it is “an alternating current (AC) signal that is supplied to the ballast using additional wiring for the purpose of controlling the ballast and putting the ballast in standby mode.” Some lighting control systems operate by communicating with the ballasts over a separate wiring system using an AC voltage. DOE was unable to locate a definition for AC control signal in IEC Standard 62301 or ANSI Standard C82.2–2002. Therefore, DOE drafted this definition of an AC control signal to enhance the clarity and understanding of its proposed test procedure—specifically that an AC control signal is a signal supplied to the ballast over a discrete wiring system for the purpose of ballast control. In today's test procedure, DOE proposes to measure the power consumed by the ballast through the control signal wiring system.

The definition for ANSI Standard C82.2–2002 is based on the wording of the existing definition of ANSI Standard C82.2–1984 in appendix Q.

The definition of DC control signal states that it is “a direct current (DC) signal that is supplied to the ballast using additional wiring for the purpose of controlling the ballast and putting the ballast in standby mode.” Some lighting control systems operate by communicating with the ballasts over a separate wiring system using DC voltage. DOE was unable to locate a definition for a DC control signal in IEC Standard 62301 or ANSI Standard C82.2–2002. Therefore, DOE drafted this definition of a DC control signal to enhance the clarity and understanding of its proposed test procedure—specifically that a DC control signal is a signal supplied to the ballast over a discrete wiring system for the purpose of ballast control. In today's test procedure, DOE proposes to measure the power consumed by the ballast through the control signal wiring system.

The definition of PLC control signal states that it is “a power line carrier (PLC) signal that is supplied to the ballast using the input ballast wiring for the purpose of controlling the ballast and putting the ballast in standby mode.” Some lighting control systems

operate by communicating with the ballasts over the existing power lines that constitute the main power connection. DOE was unable to locate a definition for a PLC control signal in IEC Standard 62301 or ANSI Standard C82.2–2002. Therefore, DOE drafted this definition of a PLC control signal to enhance the clarity and understanding of its proposed test procedure—specifically that a PLC control signal is a signal supplied to the ballast over its input ballast wiring for the purpose of controlling the ballast. In today's test procedure, DOE proposes to measure the power consumed by the ballast through the PLC control signal.

The definition of standby mode was provided in EPCA section 325(gg)(1)(A)(iii). (42 U.S.C. 6295(gg)(1)(A)(iii)) In today's notice, DOE proposes to incorporate this EPCA definition into appendix Q.

The definition of wireless control signal states that it is “a wireless signal that is radiated to and received by the ballast for the purpose of controlling the ballast and putting the ballast in standby mode.” Some lighting control systems operate by communicating with the ballasts over a wireless system, much like a wireless computer network. DOE was unable to locate a definition for a wireless control signal in IEC Standard 62301 or ANSI Standard C82.2–2002. Therefore, DOE drafted this definition of a wireless control signal to enhance the clarity and understanding of its proposed test procedure—specifically that a wireless control signal is a signal radiated from the lighting control system to the ballast for the purpose of controlling the ballast.

DOE invites stakeholder comment on these six new definitions being proposed for incorporation into section 1 of appendix Q.

3. Test Conditions

Section 2 of appendix Q provides the required test conditions for measuring the performance of fluorescent lamp ballasts. DOE proposes to modify section 2 to establish new test conditions only for the measurement of standby mode energy consumption, and thereby not affect the existing test conditions required for measuring the ballast efficacy factor in the current fluorescent lamp ballast test procedure. In other words, section 2 is proposed to be subdivided into two subsections, 2.1 and 2.2. Subsection 2.1 will contain the same requirements as section 2 does now, based on the test conditions contained in ANSI Standard C82.2–1984, for the purpose of measuring the ballast efficacy factor. Subsection 2.2 will be structured in the same way as

subsection 2.1; however, it will be for the purpose of measuring power consumed in standby mode.

DOE also proposes to correct the acronym used in existing section 2 for the American National Standard Institute, which is shown as “ANIS” instead of “ANSI” and to be consistent with other parts of the statute, refer to section 430.22 entitled “Reference Sources” for information on obtaining ANSI C82.2–1984. For clarity, all of section 2.1 is shown in the rule language section of this NOPR as proposed new language, although the only actual changes to section 2.1 are the acronym correction, the reference to section 430.22, and the addition of a sentence that reads: “The test conditions described in this subsection (2.1) are applicable to subsections 3.3 and 3.4 of section 3, Test Method and Measurements.”

DOE is concerned about having two different industry-referenced documents for test conditions. However, DOE notes that this is a temporary problem because, as previously mentioned, DOE will conduct a separate test procedure rulemaking on the existing fluorescent lamp ballast test procedure. In that future rulemaking, DOE will evaluate and consider updating the referenced industry standards in newly created subsection 2.1, and potentially recombine subsections 2.1 and 2.2 into one section 2.

DOE invites stakeholder comments on this proposal for handling the different test conditions associated with the existing and proposed new test procedure for measuring energy consumption in standby mode.

4. Test Method and Measurements

Section 3 of appendix Q provides the test method and measurements associated with the fluorescent lamp ballast test procedure. This section references requirements for instrumentation and all the steps a technician must follow when measuring the performance of the ballast. In today's notice, DOE does not propose to change any of the existing requirements or steps associated with testing for determining the ballast efficacy factor. Instead, DOE proposes to append new steps, at the end of section 3, which describe the procedure that must be followed for measuring power consumed during standby mode.

In subsection 3.1, DOE proposes to append a new sentence to the end of the existing sentence, which indicates that the testing for standby mode must be done in accordance with ANSI Standard C82.2–2002. Specifically, the proposed new sentence reads: “The test method

for measuring standby mode energy consumption of fluorescent lamp ballasts shall be done in accordance with ANSI Standard C82.2–2002.” As with the test condition issue in section 2 of appendix Q, this proposed statement would create a bifurcated test setup, requiring technicians to conduct part of the testing on a fluorescent lamp ballast using one set of conditions and then change those conditions for a second set of measurements. However, as stated earlier, the test procedure for measuring standby mode is on an accelerated schedule and must be completed by March 2009, because of the requirements of EPCA section 325(gg). (42 U.S.C. 6295(gg)) In addition, DOE intends to initiate another ballast test procedure rulemaking within one year that would consider harmonizing the test conditions and referenced industry standards. While today's proposed test procedure would become effective 30 days after publication of the final rule, manufacturers would not use this test procedure to demonstrate compliance with any efficiency standard unless or until DOE establishes efficiency standards in the fluorescent ballast standards final rule, which is scheduled to be completed in 2011. 73 FR at 3654. Any new energy conservation standards promulgated under that rulemaking would take effect five years after the effective date of the previous amended rule but only if that date is not within 3 years after the publication of the fluorescent ballast standards rulemaking final rule in 2011. (42 U.S.C. 6295(g)(7)(C))

In subsection 3.5, DOE proposes to insert the test method for measuring standby mode power. In this subsection, DOE directs the technician to send a signal to the ballast under test, instructing the ballast to have zero light output using the appropriate ballast communication protocol or system for that ballast. Next, the technician will measure the input power (in watts) to the ballast in accordance with ANSI Standard C82.2–2002. Finally, the technician will measure the power from the ballast control signal path using a method for an AC control signal path, a DC control signal path, or a power line carrier (PLC) control signal path, depending on the type of path that the ballast employs.

The measurement of input power to the ballast from the main electricity supply is based on the approach in ANSI Standard C82.2–2002, section 13. This measurement parallels the approach DOE followed in subsection 3.3.1 of the existing test procedure for fluorescent lamp ballasts, in which manufacturers are directed to measure

the input power (watts) to the ballast in accordance with ANSI Standard C82.2–1984, section 3.2.1(3) and section 4. The requirements of ANSI Standard C82.2–1984 have been combined into section 13 in ANSI Standard C82.2–2002. Thus, the test measurements of ballast input power are required to be done in accordance with the appropriate sections of the industry test method.

In subsection 3.5.3 of the proposed test procedure, DOE directs manufacturers to address measurement of control signal power. As DOE understands it, there are four possible ways of delivering a control signal to a fluorescent lamp ballast: (1) A dedicated AC control signal wire, (2) a dedicated DC control signal wire, (3) a power line carrier (PLC) control signal over the main supply input wires, and (4) a wireless control signal. DOE is interested in measuring the power consumed by the lighting control signal, and therefore proposes three methods for measuring that power, depending on which type of system is being used. DOE is not concerned with the power supplied to a ballast using the fourth approach, the wireless signal, because DOE estimates that the power supplied to a ballast using a wireless signal is well below 1.0 watt. The three circuit diagrams direct the technician to measure the control signal power using either a wattmeter (for the AC control signal wiring and the PLC control signal) or a voltmeter and ammeter (for the DC control signal). DOE incorporates three circuit diagrams in sections 3.5.3.1, 3.5.3.2, and 3.5.3.3 to clearly present the intended method of measurement for each type of control system communication protocol.

DOE invites stakeholder comments on the proposed method for measuring the power consumed by the control signal while the ballast is in standby mode.

5. Test Procedure Measurements and Burden

Once manufacturers have taken the two measurements—namely, the main input power and the control signal power in standby mode—DOE does not tell manufacturers how to combine these values or use them in equations. Instead, DOE intends to study how best to use these two measurements of standby mode power consumption in its rulemaking to evaluate energy conservation standards for fluorescent lamp ballasts, initiated in January 2008. 73 FR 3653. DOE invites stakeholders to comment on any recommended approaches to combining these two measurements into one metric in the energy conservation standards rulemaking.

Finally, the test procedure proposed today for measuring standby mode power consumption, as required by EPCA section 325(gg), is designed to produce results that measure power consumption in an accurate and repeatable manner, and should not be unduly burdensome on manufacturers to conduct. The test procedure is consistent with IEC Standard 62301 and follows testing approaches used in ANSI Standard C82.2–2002. DOE invites stakeholders to comment on the issue of burden, including whether there are any other ways DOE could secure the same accuracy and repeatability while reducing the burden.

IV. Regulatory Review

A. Executive Order 12866

Today's proposed rule is not a "significant regulatory action" under Executive Order 12866, "Regulatory Planning and Review," 58 FR 51735 (October 4, 1993). Accordingly, this action was not subject to review under that Executive Order by the Office of Information and Regulatory Affairs (OIRA) of the Office of Management and Budget (OMB).

B. National Environmental Policy Act

In this proposed rule, DOE proposes test procedure amendments that it expects will be used to develop and implement future energy conservation standards for ballasts. DOE has determined that this proposed rule falls into a class of actions that are categorically excluded from review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*; NEPA) and DOE's implementing regulations at 10 CFR part 1021. Specifically, this proposed rule would amend existing test procedures without affecting the amount, quality, or distribution of energy usage, and, therefore, will not result in any environmental impacts. Thus, this rulemaking is covered by Categorical Exclusion A5 under 10 CFR part 1021, subpart D, which applies to a rulemaking interpreting or amending an existing rule that does not change the environmental effect of the rule being amended. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

C. 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 DOE rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel's Web site, <http://www.gc.doe.gov>.

DOE reviewed today's proposed rule under the provisions of the Regulatory Flexibility Act and the policies and procedures published on February 19, 2003. As part of this rulemaking, DOE examined the existing compliance costs manufacturers already bear and compared them to the revised compliance costs, based on today's proposed revisions to the test procedure. While it is true that manufacturers making any public representation of the standby power consumption of their ballasts would be required to use this test procedure, DOE does not find that the burden imposed by the revisions proposed in this document would result in any significant increase in testing or compliance costs. Rather, the technician is required to make one additional measurement using a test setup that is already commonly used in the industry for measuring ballast power consumption. In addition, as stated in today's notice, standby mode only applies to a very small subset of fluorescent lamp ballasts (*i.e.*, those enabled to operate on lighting control systems), and therefore the vast majority of ballasts sold would not be affected by today's standard. On this basis, DOE tentatively concludes and certifies that this proposed rule would have no significant impact on a substantial number of small entities. Accordingly, DOE has not prepared a regulatory flexibility analysis for this rulemaking. DOE's certification and supporting statement of factual basis will be provided to the Chief Counsel for Advocacy of the Small Business Administration pursuant to 5 U.S.C. 605(b).

D. Paperwork Reduction Act

This rulemaking will impose no new information collection or recordkeeping requirements. Manufacturers already collect test information and maintain records on regulated fluorescent lamp ballasts based on the certification and reporting requirements approved by

OMB (OMB Control Number 1910–1400). Accordingly, OMB clearance is not required under the Paperwork Reduction Act. (44 U.S.C. 3501 *et seq.*)

E. Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4; UMRA) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. For proposed regulatory actions likely to result in a rule that may cause expenditures 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 Federal agencies to publish estimates of the resulting costs, benefits, and other effects on the national economy (2 U.S.C. 1532(a), (b)). UMRA also requires Federal agencies to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a proposed “significant intergovernmental mandate.” UMRA also requires an agency plan for giving notice and opportunity for timely input to small governments that may be affected before establishing a requirement that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. (This policy is also available at <http://www.gc.doe.gov>). Today’s proposed 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 do not apply.

F. Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277; 5 U.S.C. 601 note) requires Federal agencies to issue a Family Policymaking Assessment for any proposed rule that may affect family well-being. Today’s proposed rule would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is unnecessary to prepare a Family Policymaking Assessment.

G. Executive Order 13132

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 has examined this proposed rule and has determined that it would 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 under Executive Order 13132.

H. Executive Order 12988

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; (3) provide a clear legal standard for affected conduct rather than a general standard; and (4) 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 sections 3(a) and 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, the proposed rule meets the relevant standards of Executive Order 12988.

I. Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (Pub. L. 106–554; 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 proposed rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

J. Executive Order 13211

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 OMB, 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. Today’s regulatory action is not a significant regulatory action under Executive Order 12866. Moreover, it would not have a significant adverse effect on the supply, distribution, or use of energy. Therefore, it is not a significant energy action, and, accordingly, DOE has not prepared a Statement of Energy Effects.

K. Executive Order 12630

Pursuant to Executive Order 12630, “Governmental Actions and Interference with Constitutionally Protected Property Rights,” 53 FR 8859 (March 15, 1988) DOE has determined that this rule would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

L. Section 32 of the Federal Energy Administration Act of 1974

Under section 301 of the Department of Energy Organization Act (Pub. L. 95-91; 42 U.S.C. 7101), DOE must comply with section 32 of the Federal Energy Administration Act of 1974, as amended by the Federal Energy Administration Authorization Act of 1977 (15 U.S.C. 788; FEAA) Section 32 essentially provides in part that, where a proposed rule authorizes or requires use of commercial standards, the notice of proposed rulemaking must inform the public of the use and background of such standards. In addition, section 32(c) requires DOE to consult with the Attorney General and the Chairman of the Federal Trade Commission (FTC) concerning the impact of the commercial or industry standards on competition. The proposed rule incorporates testing methods contained in the following commercial standards: ANSI Standard C82.2-2002, "American National Standard for Lamp Ballasts—Method of Measurement of Fluorescent Lamp Ballasts, 2002." The Department has evaluated these standards and is unable to conclude whether they fully comply with the requirements of section 32(b) of the FEAA, (*i.e.*, that they were developed in a manner that fully provides for public participation, comment, and review). DOE will consult with the Attorney General and the Chairman of the FTC concerning the impact of these test procedures on competition, prior to prescribing a final rule.

V. Public Participation

A. Attendance at Public Meeting

The time, date and location of the public meeting are listed in the **DATES** and **ADDRESSES** sections at the beginning of this NOPR. To attend the public meeting, please notify Ms. Brenda Edwards at (202) 586-2945. As explained in the **ADDRESSES** section, foreign nationals visiting DOE headquarters are subject to advance security screening procedures.

B. Procedure for Submitting Requests To Speak

Any person who has an interest in the topics addressed in this notice, or who is a representative of a group or class of persons that has an interest in these issues, may request an opportunity to make an oral presentation at the public meeting. Such persons may hand-deliver requests to speak to the address shown in the **ADDRESSES** section at the beginning of this notice between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Requests may

also be sent by mail or e-mail to: Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE-2J, 1000 Independence Avenue, SW., Washington, DC 20585-0121, or Brenda.Edwards@ee.doe.gov. Persons who wish to speak should include in their request a computer diskette or CD in WordPerfect, Microsoft Word, PDF, or text (ASCII) file format that briefly describes the nature of their interest in this rulemaking and the topics they wish to discuss. Such persons should also provide a daytime telephone number where they can be reached.

DOE requests that those persons who are scheduled to speak submit a copy of their statements at least one week prior to the public meeting. DOE may permit any person who cannot supply an advance copy of this statement to participate, if that person has made alternative arrangements with the Building Technologies Program in advance. When necessary, the request to give an oral presentation should ask for such alternative arrangements.

C. Conduct of Public Meeting

DOE will designate a DOE official to preside at the public meeting and may also employ a professional facilitator to aid discussion. The public meeting will be conducted in an informal, conference style. The meeting will not be a judicial or evidentiary public hearing, but DOE will conduct it in accordance with 5 U.S.C. 553 and section 336 of EPCA (42 U.S.C. 6306). There shall not be discussion of proprietary information, costs or prices, market share, or other commercial matters regulated by U.S. anti-trust laws.

DOE reserves the right to schedule the order of presentations and to establish the procedures governing the conduct of the public meeting. A court reporter will record the proceedings and prepare a transcript.

At the public meeting, DOE will present summaries of comments received before the public meeting, allow time for presentations by participants, and encourage all interested parties to share their views on issues affecting this rulemaking. Each participant may present a prepared general statement (within time limits determined by DOE) before the discussion of specific topics. Other participants may comment briefly on any general statements. At the end of the prepared statements on each specific topic, participants may clarify their statements briefly and comment on statements made by others. Participants should be prepared to answer questions from DOE and other participants. DOE

representatives may also ask questions about other matters relevant to this rulemaking. The official conducting the public meeting will accept additional comments or questions from those attending, as time permits. The presiding official will announce any further procedural rules or modification of procedures needed for the proper conduct of the public meeting.

DOE will make the entire record of this proposed rulemaking, including the transcript from the public meeting, available for inspection at the U.S. Department of Energy, 6th Floor, 950 L'Enfant Plaza, SW., Washington, DC 20024, (202) 586-2945, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The official transcript will also be posted on the Webpage at http://www.eere.energy.gov/buildings/appliance_standards/residential/fluorescent_lamp_ballasts.html. Anyone may purchase a copy of the transcript from the transcribing reporter.

D. Submission of Comments

DOE will accept comments, data, and information regarding the proposed rule no later than the date provided at the beginning of this notice. Comments, data, and information submitted to DOE's e-mail address for this rulemaking should be provided in WordPerfect, Microsoft Word, PDF, or text (ASCII) file format. Stakeholders should avoid the use of special characters or any form of encryption, and wherever possible, comments should include the electronic signature of the author. Absent an electronic signature, comments submitted electronically must be followed and authenticated by submitting a signed original paper document to the address provided at the beginning of this notice. Comments, data, and information submitted to DOE via mail or hand delivery/courier should include one signed original paper copy. No telefacsimiles (faxes) will be accepted.

According to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit two copies: one copy of the document including all the information believed to be confidential, and one copy of the document with the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

Factors of interest to DOE when evaluating requests to treat submitted information as confidential include (1) A description of the items; (2) whether

and why such items are customarily treated as confidential within the industry; (3) whether the information is generally known by or available from other sources; (4) whether the information has previously been made available to others without obligation concerning its confidentiality; (5) an explanation of the competitive injury to the submitting person which would result from public disclosure; (6) a date upon which such information might lose its confidential nature due to the passage of time; and (7) why disclosure of the information would be contrary to the public interest.

E. Issues on Which DOE Seeks Comment

Although comments are welcome on all aspects of this rulemaking, DOE is particularly interested in receiving comments and views of interested parties concerning the following issues:

1. DOE invites stakeholders to comment on its interpretation of the application of the terms active mode, standby mode, and off mode to fluorescent lamp ballasts, as defined in EPCA section 325(gg). In particular, DOE invites stakeholders to comment on its preliminary conclusion that off mode does not apply to fluorescent lamp ballasts at this time, and therefore is not included as part of this test procedure. See section III.A.

2. DOE invites stakeholders to comment on how it is proposing to interpret the scope of applicability to this test procedure to apply to all fluorescent lamp ballasts that incorporate an electronic circuit enabling the ballast to communicate with and be part of a lighting control system. Although all ballasts are subject to the test procedure, only these types would be subject to standby mode power consumption. See section III.B.1

3. DOE invites stakeholder comments on the definitions for the six new terms added to section 1 of appendix Q to subpart B of 10 CFR part 430: AC control signal, ANSI Standard C82.2–2002, DC control signal, PLC control signal, standby mode, and wireless control signal. See section III.C.2.

4. DOE invites stakeholder comments on its proposal to retain the testing conditions in place (based on ANSI Standard C82.2–1984) for the current test procedure and yet to propose to adopt new test conditions (based on ANSI Standard C82.2–2002) for the proposed standby mode power measurements. See section III.C.3.

5. DOE invites stakeholder comments on the test method and measurements proposed for subsection 3.5 of appendix Q to subpart B of 10 CFR part 430. This subsection provides the step-by-step

procedure and circuit diagrams necessary for measuring the power (in watts) consumed by the main power input to the ballast and the control signal (if any). See section III.C.4.

VI. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this proposed rule.

List of Subjects in 10 CFR Part 430

Administrative practice and procedure, Energy conservation test procedures, Household appliances, Imports, Incorporation by reference.

Issued in Washington, DC on January 8, 2009.

John F. Mizroch,

Acting Assistant Secretary, Energy Efficiency and Renewable Energy.

For the reasons stated in the preamble, DOE is proposing to amend part 430 of Chapter II of Title 10, Code of Federal Regulations as set forth below:

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 430.22 is amended by adding new paragraphs (b)(1)9. and (b)(1)10. to read as follows:

§ 430.22 Reference Sources.

* * * * *

(b)(1) * * *

9. ANSI Standard C82.2–1984, “American National Standard for Fluorescent Lamp Ballasts—Method of Measurement, 1984”

10. ANSI Standard C82.2–2002, “American National Standard for Lamp Ballasts—Method of Measurement of Fluorescent Lamp Ballasts, 2002”

* * * * *

3. Section 430.23 is amended by redesignating paragraph (q)(4) as paragraph (q)(5) and adding a new paragraph (q)(4) to read as follows:

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

* * * * *

(q) Fluorescent Lamp Ballasts. * * *

(4) Standby power consumption of certain fluorescent lamp ballasts shall be measured in accordance with section 3.5 of appendix Q to Subpart B of Part 430.

* * * * *

4. Appendix Q to Subpart B of Part 430 is amended:

- a. In section 1, Definitions, by:
1. Redesignating sections 1.12, 1.13, 1.14, and 1.15 to sections 1.17, 1.18, 1.19, and 1.20 respectively.
2. Redesignating sections 1.7, 1.8, 1.9, 1.10, and 1.11 to sections 1.11, 1.12, 1.13, 1.14, and 1.15 respectively.
3. Redesignating section 1.3 to section 1.7.
4. Redesignating section 1.16 to 1.3 and adding a new section 1.16.
5. Redesignating section 1.4 to section 1.8 and adding a new section 1.4.
6. Redesignating section 1.5 to section 1.9.
7. Redesignating section 1.6 to section 1.10, and adding a new section 1.6.
8. Redesignating section 1.2 to section 1.5.
9. Redesignating section 1.1 to section 1.2, and adding a new section 1.1.
10. Adding new sections 1.21 and 1.22.
b. By revising section 2;
c. By revising section 3.1 and adding new sections 3.5, 3.5.1, 3.5.2, 3.5.3, 3.5.3.1, 3.5.3.2, 3.5.3.3, and 3.5.3.4.

These revisions and additions read as follows:

Appendix Q to Subpart B of Part 430—Uniform Test Method for Measuring the Energy Consumption of Fluorescent Lamp Ballasts

1. Definitions.

1.1 AC control signal means an alternating current (AC) signal that is supplied to the ballast using additional wiring for the purpose of controlling the ballast and putting the ballast in standby mode.

* * * * *

1.4 ANSI Standard C82.2–2002 means the test standard published by the American National Standard Institute (ANSI), titled “American National Standard for Lamp Ballasts—Method of Measurement of Fluorescent Lamp Ballasts, 2002,” and designated as ANSI Standard C82.2–2002.

* * * * *

1.6 DC control signal means a direct current (DC) signal that is supplied to the ballast using additional wiring for the purpose of controlling the ballast and putting the ballast in standby mode.

* * * * *

1.16 PLC control signal means a power line carrier (PLC) signal that is supplied to the ballast using the input ballast wiring for the purpose of controlling the ballast and putting the ballast in standby mode.

* * * * *

1.21 Standby mode means the condition in which an energy-using product—(a) is connected to a main power source; and (b) offers one or more of the following user-oriented or protective functions: (i) To facilitate the activation or deactivation of other functions (including active mode) by remote switch (including remote control), internal sensor, or timer. (ii) Continuous

functions, including information or status displays (including clocks) or sensor-based functions.

1.22 *Wireless control signal* means a wireless signal that is radiated to and received by the ballast for the purpose of controlling the ballast and putting the ballast in standby mode.

2. *Test conditions.*

2.1 *Measurement of Electric Supply and Light Output.*

The test conditions for testing fluorescent lamp ballasts shall be done in accordance with the American National Standard Institute (ANSI) Standard C82.2–1984, “American National Standard for Fluorescent Lamp Ballasts—Methods of Measurement,” approved October 21, 1983. See § 430.22 for information on the availability of this material. Any subsequent amendment to this standard by the standard-setting organization will not affect the DOE test procedures unless and until amended by DOE. The test conditions are described in sections 4, 5, 6, 7, and 21 of ANSI Standard C82.2–1984. The test conditions described in this subsection

(2.1) are applicable to subsections 3.3 and 3.4 of section 3, Test Method and Measurements.

2.2 *Measurement of Standby Mode Power.* The measurement of standby mode power need not be performed to determine compliance with energy conservation standards for fluorescent lamp ballasts established prior to [EFFECTIVE DATE OF TEST PROCEDURE FINAL RULE].

The test conditions for testing fluorescent lamp ballasts shall be done in accordance with the American National Standard Institute (ANSI) Standard C82.2–2002, “American National Standard for Fluorescent Lamp Ballasts—Methods of Measurement,” approved June 6, 2002. See § 430.22 for information on the availability of this material. Any subsequent amendment to this standard by the standard-setting organization will not affect the DOE test procedures unless and until amended by DOE. The test conditions for measuring standby power are described in sections 5, 7, and 8 of ANSI Standard C82.2–2002. The test conditions described in this subsection (2.2) are applicable to subsection 3.5 of section 3, Test Method and Measurements.

3. *Test Method and Measurements.*

3.1 The test method for testing fluorescent lamp ballasts shall be done in accordance with ANSI Standard C82.2–1984. The test method for measuring standby mode energy consumption of fluorescent lamp ballasts shall be done in accordance with ANSI Standard C82.2–2002.

* * * * *

3.5 *Standby Mode Power Measurement.*

3.5.1. Send a signal to the ballast instructing it to have zero light output using the appropriate ballast communication protocol or system for the ballast being tested.

3.5.2 *Input Power.* Measure the input power (watts) to the ballast in accordance with ANSI Standard C82.2–2002, section 13.

3.5.3 *Control Signal Power.* The power from the control signal path will be measured using one of the methods described below.

3.5.3.1 *AC Control Signal.* Measure the AC control signal power (watts), using a wattmeter (W), connected to the ballast in accordance with the circuit shown in Figure 1.

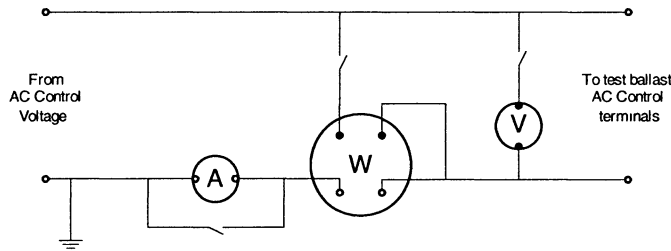


Figure 1: Circuit for measuring AC Control Signal Power in Standby Mode

3.5.3.2 *DC Control Signal.* Measure the DC control signal voltage, using a voltmeter (V), and current, using an ammeter (A),

connected to the ballast in accordance with the circuit shown in Figure 2. The DC control signal power is calculated by multiplying the

DC control signal voltage and the DC control signal current.

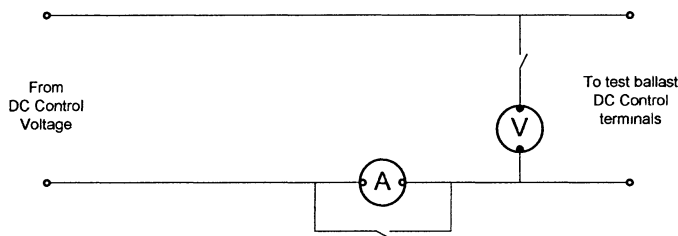


Figure 2: Circuit for measuring DC Control Signal Power in Standby Mode

3.5.3.3 *Power Line Carrier (PLC) Control Signal.* Measure the PLC control signal power (watts), using a wattmeter (W), connected to the ballast in accordance with the circuit

shown in Figure 3. The wattmeter must have a frequency response that is at least 10 times higher than the PLC being measured in order to measure the PLC signal correctly. The

wattmeter must also be high-pass filtered to filter out power at 60 Hertz.

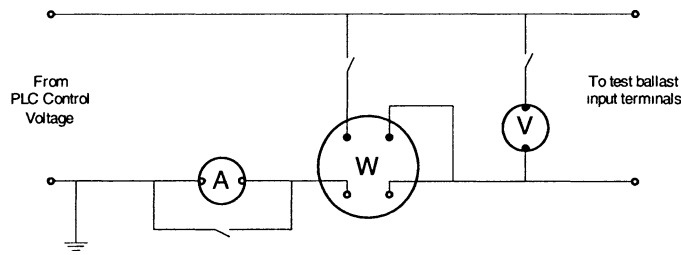


Figure 3: Circuit for measuring PLC Control Signal Power in Standby Mode

3.5.3.4 *Wireless Control Signal.* The power supplied to a ballast using a wireless signal is not easily measured, but is estimated to be well below 1.0 watt. Therefore, the wireless control signal power is not measured as part of this test procedure.

[FR Doc. E9-948 Filed 1-16-09; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2006-25173; Directorate Identifier 2006-NE-24-AD]

RIN 2120-AA64

Airworthiness Directives; McCauley Propeller Systems Propeller Models B5JFR36C1101/114GCA-0, C5JFR36C1102/L114GCA-0, B5JFR36C1103/114HCA-0, and C5JFR36C1104/L114HCA-0

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede an existing airworthiness directive (AD) for McCauley Propeller Systems propeller models B5JFR36C1101/114GCA-0, C5JFR36C1102/L114GCA-0, B5JFR36C1103/114HCA-0, and C5JFR36C1104/L114HCA-0. That AD currently requires initial and repetitive fluorescent penetrant inspections (FPI) and eddy current inspections (ECI) of propeller blades for cracks, and if any crack indications are found, removing the blade from service. That AD also mandates a life limit for the blades. This proposed AD would require the same inspections, add a visual inspection, and would further reduce the propeller blade life limit. This proposed AD would also require removing blades with more than 10,000 operating hours time-since-new (TSN), before further

flight. This proposed AD would also require removal from service of all the propeller blades and the propeller hub if one or more propeller blades have been found cracked on a propeller assembly. This proposed AD would also require removing from service all C-5963 split retainers. This proposed AD results from 8 reports of propeller blades found cracked since May of 2006. We are proposing this AD to detect cracks in the propeller blade that could cause failure and separation of the propeller blade and loss of control of the airplane.

DATES: We must receive any comments on this proposed AD by March 23, 2009.

ADDRESSES: Use one of the following addresses to comment on this proposed AD.

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically.
- *Mail:* Docket Management Facility, 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.

Contact McCauley Propeller Systems, 5800 E. Pawnee, Wichita, KS 67218, telephone (800) 621-7767, for the service information identified in this proposed AD.

FOR FURTHER INFORMATION CONTACT: Jeff Janusz, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, Small Airplane Directorate, 1801 Airport Road, Room 100, Wichita, KS 67209; e-mail: jeff.janusz@faa.gov; telephone: (316) 946-4148; fax: (316) 946-4107.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments regarding this proposal. Send your comments to an address listed under **ADDRESSES**. Include "Docket No. FAA-

2006-25173; Directorate Identifier 2006-NE-24-AD" in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light 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 proposed 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 union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78).

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

Discussion

The FAA proposes to amend 14 CFR part 39 by superseding AD 2008-08-01, Amendment 39-15453 (73 FR 19971, April 14, 2008). That AD requires initial and repetitive FPI and ECI of propeller blades for cracks, and if any crack indications are found, removing the blade from service. That AD also