

# Proposed Rules

Federal Register

Vol. 75, No. 49

Monday, March 15, 2010

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. EE-2009-BT-STD-0022]

RIN 1904-AC06

#### Energy Conservation Program for Consumer Products: Energy Conservation Standards for Residential Furnaces

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

**ACTION:** Notice of public meeting and availability of a rulemaking analysis plan.

**SUMMARY:** The U.S. Department of Energy (DOE) will hold a public meeting to discuss and receive comments on the product classes that DOE plans to analyze for purposes of amending energy conservation standards for certain residential furnaces, and the analytical approach, models, and tools that DOE is using to evaluate amended standards for these products. DOE also encourages written comments on these subjects. A detailed discussion of these topics can be found in the rulemaking analysis plan (RAP) for residential furnaces, which is available at: [http://www.eere.energy.gov/buildings/appliance\\_standards/residential/furnaces\\_boilers.html](http://www.eere.energy.gov/buildings/appliance_standards/residential/furnaces_boilers.html).

**DATES:** DOE will hold a public meeting on Wednesday, March 31, 2010, from 9 a.m. to 5 p.m. in Washington, DC. Any person requesting to speak at the public meeting should submit such a request, along with an electronic copy of the statement to be given at the public meeting, before 4 p.m., Wednesday, March 24, 2010. Written comments are welcome, especially following the public meeting and should be submitted by April 14, 2010.

**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. Please

note that foreign nationals visiting DOE Headquarters are subject to advance security screening procedures. If a foreign national wishes to participate in the meeting, 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. Interested persons may submit comments, identified by the notice title, the NOPM for Energy Conservation Standards for Residential Furnaces, and provide the docket number EE-2009-BT-STD-0022 and/or regulatory identifier number (RIN) 1904-AC06. Comments may be submitted using any of the following methods:

1. *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
2. *E-mail: Res-Furnaces-2009-STD-0022@ee.doe.gov*. Include docket number EE-2009-BT-STD-0022 and/or RIN, 1904-AC06 in the subject line of the message.
3. *Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE-2J, NOPM for Energy Conservation Standards for Residential Furnaces, 1000 Independence Avenue, SW., Washington, DC, 20585-0121. Please submit one signed paper original.
4. *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, 950 L'Enfant Plaza, SW., Suite 600, Washington, DC 20024. Telephone: (202) 586-2945. Please submit one signed paper original.

**Instructions:** All submissions received must include the agency name and docket number.

**Docket:** For access to the docket to read background documents or comments received, visit the U.S. Department of Energy, Resource Room of the Building Technologies Program, 950 L'Enfant Plaza, SW., Suite 600, Washington, DC, (202) 586-2945, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Please call Ms. Brenda Edwards at the above telephone number for additional information regarding visiting the Resource Room.

**FOR FURTHER INFORMATION CONTACT:** Mr. Mohammed Khan, 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) 586-7892. E-mail: [Mohammed.Khan@ee.doe.gov](mailto:Mohammed.Khan@ee.doe.gov).

Mr. Eric Stas, U.S. Department of Energy, Office of the General Counsel, GC-71, 1000 Independence Avenue, SW., Washington, DC, 20585-0121. Telephone: (202) 586-5827. E-mail: [Eric.Stas@hq.doe.gov](mailto:Eric.Stas@hq.doe.gov).

#### SUPPLEMENTARY INFORMATION:

##### A. Statutory Authority

###### 1. General

Title III of the Energy Policy and Conservation Act (EPCA) sets forth a variety of provisions designed to improve energy efficiency. Part A<sup>1</sup> of Title III (42 U.S.C. 6291-6309) establishes the Energy Conservation Program for Consumer Products Other Than Automobiles. The program covers consumer products and certain commercial equipment (referred to hereafter as "covered products"), including the residential furnaces that are subject to this rulemaking. (42 U.S.C. 6292(a)(5)) EPCA prescribed the initial energy conservation standards for residential furnaces. (42 U.S.C. 6295(f)(1)-(2)) The statute further provides DOE with the authority to conduct rulemakings to determine whether to amend these standards. (42 U.S.C. 6295(f)(4)).

EPCA provides criteria for prescribing new or amended standards for covered products. Any new or amended standard for a covered product must be designed to achieve the maximum improvement in energy efficiency that is technologically feasible and economically justified. (42 U.S.C. 6295(o)(2)(A)) Furthermore, EPCA precludes DOE from adopting any standard that would not result in significant conservation of energy. (42 U.S.C. 6295(o)(3)(B)) EPCA also provides that, in deciding whether a standard is economically justified, DOE must determine whether the benefits of the standard exceed its burdens. (42 U.S.C. 6295(o)(2)(B)(i)) DOE must do so after receiving comments on the proposed standard and by considering, to the greatest extent practicable, the following seven factors:

<sup>1</sup> This part was originally titled Part B. It was redesignated Part A in the United States Code for editorial reasons.

1. The economic impact of the standard on manufacturers and consumers of the products subject to the standard;

2. The savings in operating costs throughout the estimated average life of the covered products in the type (or class) compared to any increase in the price, initial charges, or maintenance expenses for the covered products that are likely to result from the imposition of the standard;

3. The total projected amount of energy (or, as applicable, water) savings likely to result directly from the imposition of the standard;

4. Any lessening of the utility or the performance of the covered products likely to result from the imposition of the standard;

5. The impact of any lessening of competition, as determined in writing by the Attorney General, that is likely to result from the imposition of the standard;

6. The need for national energy and water conservation; and

7. Other factors the Secretary considers relevant.

(42 U.S.C. 6295(o)(2)(B)(i)(I)–(VII))

Prior to proposing a standard, DOE typically seeks public input on the analytical framework, models, and tools that will be used to evaluate standards. DOE is publishing this notice of public meeting (NOPM) to announce the availability of the rulemaking analysis plan (RAP), which details the plans for the rulemaking approach, key data sources DOE plans to use in its analyses, and a list of key issues DOE would like comment upon. In addition, DOE is announcing a public meeting to solicit feedback from interested parties on the RAP, models, and data sources.

## 2. Regional Standards

### a. General

Section 306(a) of the Energy Independence and Security Act of 2007 (EISA 2007; Pub. L. 110–140) amended EPCA to allow DOE to consider the establishment of separate regional standards for furnaces. (42 U.S.C. 6295(o)(6)(A)) Specifically, EPCA allows for the establishment of a single more-restrictive regional standard in addition to the base national standard. (42 U.S.C. 6295(o)(6)(B)) EPCA stipulates that the regions must include only contiguous states (with the exception of Alaska and Hawaii, which can be included in regions that they are not contiguous with), and that each state may be placed in only one region (*i.e.*, a state cannot be divided among two regions). (42 U.S.C. 6295(o)(6)(C))

EPCA mandates that a regional standard must produce significant energy savings in comparison to a single national standard. Further, EPCA provides that DOE must determine that the additional standards are economically justified and consider the impact of the additional regional

standards on consumers, manufacturers, and other market participants, including product distributors, dealers, contractors, and installers. (42 U.S.C. 6295(o)(6)(C)–(D)) For this rulemaking, DOE will consider the impacts of regional standards in addition to national standards. The RAP gives an overview of DOE's proposed methodology for analyzing impacts of a regional standard for furnaces, and additional detail about DOE's proposed approach is provided throughout the RAP in the applicable sections and subsections.

## B. History of the Standards Rulemaking for Residential Furnaces

### 1. Background

Energy conservation standards for residential furnaces were initially specified by EPCA in terms of annual fuel utilization efficiency (AFUE). EPCA set minimum standards for all furnaces except for mobile home furnaces and “small” furnaces (*i.e.*, those units with an input capacity less than 45,000 British thermal units per hour (Btu/h)) at 78-percent AFUE, with a compliance date of January 1, 1992. EPCA specified a separate 75-percent AFUE standard for mobile home furnaces with a compliance date of September 1, 1990. (42 U.S.C. 6295(f)(1)–(2)) For furnaces with an input capacity less than 45,000 Btu/h, DOE published a final rule on November 17, 1989 that set the minimum standard for those products at 78-percent AFUE, with a compliance date of January 1, 1992. 54 FR 47916.

On November 19, 2007, DOE published a final rule (hereafter referred to as the “November 2007 final rule”) amending the minimum energy conservation standards for four product classes of residential furnaces (*i.e.*, non-weatherized gas, weatherized gas, mobile home gas, and non-weatherized oil). 72 FR 65136. This rulemaking set standards that would apply to any covered products manufactured for sale in the United States, or imported into the United States, on or after November 19, 2015.

In response to the November 2007 final rule, the state of New York, city of New York, state of Connecticut, commonwealth of Massachusetts, and Natural Resources Defense Council filed a joint lawsuit against DOE in the United States Court of Appeals for the Second Circuit. The petitioners asserted that the standards for residential furnaces promulgated by the November 2007 final rule did not reflect the “maximum improvement in energy efficiency” that “is technologically feasible and economically justified,” as

required by section 325(o)(2)(A) of EPCA. On April 16, 2009, DOE and the petitioners agreed to a voluntary remand that would require DOE to revisit its initial conclusions outlined in the November 2007 final rule. As part of the remand agreement, DOE has until May 1, 2011 to issue a final rule amending the energy conservation standards for residential furnaces.

In addition, section 310(3) of the Energy Independence and Security Act of 2007 (EISA 2007) amended EPCA to require that energy conservation standards address standby mode and off mode energy use for a certain subset of products. (42 U.S.C. 6295(gg)) Specifically, when DOE adopts new or amended standards for certain covered products after July 1, 2010, the final rule must, if justified by the criteria for adoption of standards in section 325(o) of EPCA, incorporate standby mode and off mode energy use into a single standard if feasible, or otherwise adopt a separate standard for such energy use for that product. (42 U.S.C. 6295(gg)(3)) Because this rulemaking is scheduled for issuance after July 1, 2010, DOE plans to address the standby mode and off mode energy use in this rulemaking. Additional discussions of the standby mode and off mode energy use for residential furnaces can be found in the RAP.

### 2. Current Rulemaking for Energy Conservation Standards for Residential Furnaces

Section 307 of EISA 2007 amended EPCA by removing the requirement for DOE to publish an advanced notice of proposed rulemaking (ANOPR) when amending standards for consumer products. DOE believes, however, that early opportunities for DOE to vet its assumptions and analyses and for interested parties to provide comments and data can be valuable in developing energy conservation standards. For this rulemaking, DOE developed an alternative rulemaking pathway, consisting of a NOPM and RAP. These documents represent the first step in the process of revising the energy conservation standards set forth in the November 2007 final rule for residential furnaces. DOE is issuing this NOPM to receive feedback on the methodologies, data, and key assumptions that will be used for the analyses before performing the notice of proposed rulemaking (NOPR) analyses. The analyses and proposed methodologies that will be used for the NOPR phase of this rulemaking are described in detail in the RAP, available at the Web link provided in the **SUMMARY** section of this notice.

Subsequently, DOE intends to issue the NOPR for public comment.

### C. Specific Issues for Which DOE Is Seeking Comment

DOE is specifically presenting two issues regarding the energy conservation standards rulemaking for residential furnaces in today's notice. DOE presents additional issues throughout the RAP for which DOE also seeks comment. The issues for which DOE seeks comment are presented throughout the RAP and summarized at the end.

#### 1. Consensus Agreement

On January 26, 2010, the Air-Conditioning, Heating and Refrigeration Institute (AHRI), American Council for an Energy Efficient Economy (ACEEE), Alliance to Save Energy (ASE), Appliance Standards Awareness Project (ASAP), Natural Resources Defense Council (NRDC), and Northeast Energy Efficiency Partnerships (NEEP) submitted a joint comment (hereafter referred to as the Joint Comment) to DOE recommending minimum energy conservation standards for residential central air conditioners, heat pumps, and furnaces. (AHRI, ACEEE, ASE, ASAP, NRDC, and NEEP, the Joint Comment, No. 1 at pp. 1–33) The Joint Comment stated the original consensus agreement was completed on October 13, 2009 and had 15 signatories, including AHRI, ACEEE, ASE, NRDC, ASAP, NEEP, Northwest Power and Conservation Council (NPCC), California Energy Commission (CEC), Bard Manufacturing Company Inc., Carrier Residential and Light Commercial Systems, Goodman Global Inc., Lennox Residential, Mitsubishi Electric & Electronics USA, National Comfort Products, and Trane Residential.

The Joint Comment recommends standards that divide the nation into three regions for residential central air conditioners and two regions for residential furnaces based on the population-weighted number of heating degree days (HDD) of each state. States with 5000 HDD or more are considered as part of the northern region, while states with less than 5000 HDD are considered part of the southern region. For residential central air conditioners, the Joint Comment establishes a third region—the “southwest” region—which is comprised of California, Arizona, New Mexico, and Nevada. For furnaces, the southwest region states are included in the southern region. The compliance date specified in the agreement is May 1, 2013 for non-weatherized furnaces and January 1, 2015 for weatherized furnaces.

In addition to the RAP, DOE is making available on its Web site the Joint comment, which can be found: [http://www1.eere.energy.gov/buildings/appliance\\_standards/residential/furnaces\\_boilers.html](http://www1.eere.energy.gov/buildings/appliance_standards/residential/furnaces_boilers.html). DOE specifically invites comment from interested parties on the Joint Comment. In particular, DOE is interested in comments relating to the proposed AFUE requirements, the proposed regional divisions, and the proposed compliance dates for residential furnace standards.

#### 2. Combined Rulemaking Approach

DOE is currently conducting or planning separate standards rulemakings for three interrelated products: (1) Central air conditioners and heat pumps; (2) gas furnaces; and (3) furnace fans. DOE is required by a Court-ordered consent decree to publish a final rule addressing the energy conservation standards for residential central air conditioners and heat pumps by June 30, 2011. A final rule published by DOE in November 2007 amending the minimum energy conservation standards for gas furnaces was remanded by the Courts to DOE under the mandate that DOE publish a new final rule by May 1, 2011. EISA 2007 amended EPCA to require that DOE publish a final rule establishing energy conservation standards for “the electricity used for purposes of circulating air through duct work” (*i.e.*, the electrical energy consumed by furnace fans) by January 1, 2013. (42 U.S.C. 6295(f)(4)(D))

Rather than analyze each set of products separately, DOE is considering combining the analyses to examine how the interaction between the three products impacts the cost to consumers and the energy savings resulting from potential amended standards. If DOE conducts such an analysis and the results indicate that a combined approach yields additional savings beyond what can be achieved by considering each product separately, DOE may decide to pursue a combined standards rulemaking that addresses all three products, or two of the three products (*i.e.*, central air conditioners and heat pumps and residential furnaces), simultaneously. If such a combined rulemaking is pursued, DOE would be required to publish the combined final rule by May 1, 2011 in order to comply with the conditions of the remand agreement for residential furnaces. DOE is seeking comment from interested parties relating to a combined rulemaking regarding energy conservation standards for residential central air conditioners and heat pumps, residential furnaces, and furnace fans.

### D. Summary of the Analyses To Be Performed by DOE

For residential furnaces, DOE is planning to conduct in-depth technical analyses for the NOPR in the following areas: (1) Engineering, (2) markups to determine product price, (3) energy-use characterization, (4) life-cycle cost (LCC) and payback period (PBP), (5) national impacts, (6) manufacturer impacts, (7) utility impacts, (8) environmental impacts, (9) employment impacts, and (10) regulatory impacts.

#### 1. Engineering Analysis

The engineering analysis establishes the relationship between the cost and efficiency of a product DOE is evaluating for amended energy conservation standards. This relationship serves as the basis for cost-benefit calculations for individual consumers, manufacturers, and the nation. The engineering analysis will identify representative baseline products, which is the starting point for analyzing technologies that provide energy efficiency improvements. Baseline product refers to a model or models having features and technologies typically found in products currently offered for sale. The baseline model in each product class represents the characteristics of products in that class and, for products already subject to energy conservation standards, usually is a model that just meets the current standard.

#### 2. Markups To Determine Product Price

DOE uses markups to convert the manufacturer costs estimated in the engineering analysis to consumer prices, which then are used in the life-cycle cost (LCC) and payback period (PBP) and manufacturer impact analyses. DOE calculates markups for baseline products (baseline markups) and for more efficient products (incremental markups). The incremental markup relates the change in the manufacturer sales price of higher-efficiency models (the incremental cost increase) to the change in the retailer or distributor sales price. To develop markups, DOE identifies how the products are distributed from the manufacturer to the customer. After establishing appropriate distribution channels, DOE relies on economic data from the U.S. Census Bureau and other sources to define how prices are marked up as the products pass from the manufacturer to the customer.

#### 3. Energy Use Characterization

The purpose of the energy use analysis is to determine the annual energy consumption of residential

furnaces in representative U.S. homes and to assess the energy-savings potential of increased product efficiencies. DOE will estimate the annual energy consumption of residential furnaces at specified energy efficiency levels across a range of climate zones. The annual energy consumption includes use of natural gas or oil for heat production as well as use of electricity for the blower and auxiliary components. The annual energy consumption of residential furnaces will be used in subsequent analyses, including the LCC, PBP, and National Impact Analyses.

#### 4. Life-Cycle Cost and Payback Period Analyses

The LCC and PBP analyses evaluate the economic impact of potential standards on individual consumers. The LCC is the total consumer expense for a product over the life of the product. The LCC analysis will compare the LCC of products designed to meet possible energy conservation standards with the LCC of products likely to be installed in the absence of standards. DOE will determine LCCs by considering (1) Total installed cost to the purchaser (which consists of manufacturer selling price, sales taxes, distribution chain markups, and installation cost); (2) the operating expenses of the products (energy use and repair and maintenance); (3) product lifetime; and (4) a discount rate that puts the LCC in present-value terms. The PBP represents the number of years needed to recover the increase in purchase price (including installation cost) of more efficient products through savings in the operating cost of the product. It is the change in total installed cost due to increased efficiency divided by the change in annual operating cost from increased efficiency.

#### 5. National Impacts Analysis

The NIA estimates the national energy savings (NES) and the net present value (NPV) of total consumer costs and savings expected to result from new standards at specific efficiency levels. DOE calculates NES and NPV for each efficiency level as the difference between a base-case forecast (without new standards) and the standards case forecast (with standards). DOE determines national annual energy consumption by multiplying the number of units in use (by vintage) by the average unit energy consumption (also by vintage). Cumulative energy savings are the sum of the annual NES determined over a specified time period. The national NPV is the sum over time of the discounted net savings each year,

which consists of the difference between total operating cost savings and increases in total installed costs. Critical inputs to this analysis include shipments projections, retirement rates (based on estimated product lifetimes), and estimates of changes in shipments in response to changes in product costs due to standards.

#### 6. Manufacturer Impact Analysis

The purpose of the manufacturer impact analysis (MIA) is to identify and quantify the likely impacts of amended energy conservation standards on manufacturers of residential furnaces. Using industry research, public comments, and interviews with manufacturers and other interested parties, DOE will analyze and consider a wide range of quantitative and qualitative industry impacts that may occur due to amended energy conservation standards. Based on the information gathered during interviews and other research, DOE will assess impacts on competition, manufacturing capacity, employment, and regulatory burden.

#### 7. Utility Impact Analysis

The utility impact analysis examines the effects of amended energy conservation standards on the installed generation capacity of electric, gas, and oil utilities. The utility impact analysis reports the changes in installed capacity and generation between the base case and the standards cases that result from each standard level by plant type.

#### 8. Environmental Impact Analysis

The purpose of the environmental impact analysis is to quantify and consider the environmental effects of amended energy conservation standards for furnaces. The environmental analysis will assess impacts of amended energy conservation standards on the following types of energy-related emissions—carbon dioxide (CO<sub>2</sub>), oxides of nitrogen (NO<sub>x</sub>), sulfur dioxide (SO<sub>2</sub>), and mercury (Hg). As part of the environmental impacts analysis, DOE plans to monetize the benefits associated with emissions reductions using a range of values.

#### 9. Employment Analysis

The employment analysis will estimate indirect national job creation or elimination resulting from possible standards. Indirect employment impacts may result from expenditures shifting between goods (the substitution effect) and changes in income and overall expenditure levels (the income effect) that occur due to the standards. DOE defines indirect employment impacts

from standards as net jobs eliminated or created in the general economy as a result of increased spending driven by increased equipment prices and reduced spending on energy.

#### 10. Regulatory Impact Analysis

The regulatory impact analysis addresses the potential for non-regulatory approaches to supplant or augment energy conservation standards in order to improve the energy efficiency or reduce the energy consumption of the products covered under this rulemaking. DOE will base its assessment on the actual impacts of any such initiatives to date, but will also consider information presented regarding the impacts that any existing initiative might have in the future.

#### 11. Additional Supporting Analyses

DOE will also conduct several analyses that support the analyses listed above, including the market and technology assessment and the screening analysis, which contribute to the engineering analysis, and the shipments analysis, which contributes to the NIA. DOE also conducts an LCC subgroup analysis, which evaluates economic impacts on selected groups of consumers who might be adversely affected by a change in the national energy conservation standards for the considered products.

DOE further describes each analysis, including the methodologies, key data sources, and issues for which DOE seeks public comment in the RAP. The RAP is available at the Web address given in the **SUMMARY** section of this notice.

DOE considers public participation to be a very important part of the process for setting energy conservation standards. DOE actively encourages the participation and interaction of the public during the comment period in each stage of the rulemaking process. Beginning with the NOPM, and during each subsequent public meeting and comment period, interactions with and between members of the public provide a balanced discussion of the issues to assist DOE in the standards rulemaking process.

Accordingly, DOE encourages those who wish to participate in the public meeting to obtain the RAP from DOE's Web site and to be prepared to discuss its contents. A copy of the RAP is available at the Web address given in the **SUMMARY** section of this notice. However, public meeting participants need not limit their comments to the topics identified in the RAP. DOE is also interested in receiving views concerning other relevant issues that participants believe would affect energy

conservation standards for residential furnaces or that DOE should address in the NOPR.

Furthermore, DOE welcomes all interested parties, regardless of whether they participate in the public meeting, to submit in writing by April 14, 2010, comments and information on matters addressed in the RAP and on other matters relevant to consideration of standards for residential furnaces.

The public meeting will be conducted in an informal, conference style. A court reporter will be present to record the minutes of the meeting. There shall be no discussion of proprietary information, costs or prices, market shares, or other commercial matters regulated by United States antitrust laws.

After the public meeting and the expiration of the period for submitting written statements, DOE will consider all comments and additional information that is obtained from interested parties or through further analyses, and it will prepare a NOPR. The NOPR will include proposed energy conservation standards for the products covered by the rulemaking, and members of the public will be given an opportunity to submit written and oral comments on the proposed standards.

Issued in Washington, DC, on February 22, 2010.

**Cathy Zoi,**

*Assistant Secretary, Energy Efficiency and Renewable Energy.*

[FR Doc. 2010-5564 Filed 3-12-10; 8:45 am]

**BILLING CODE 6450-01-P**

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2010-0102; Directorate Identifier 2010-NE-09-AD]

RIN 2120-AA64

#### **Airworthiness Directives; Ontic Engineering and Manufacturing, Inc. Propeller Governors, Part Numbers C210776, T210761, D210760, and J210761**

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** The FAA proposes to adopt a new airworthiness directive (AD) for certain serial numbers (S/Ns) of Ontic Engineering and Manufacturing, Inc. propeller governors, part numbers (P/Ns) C210776, T210761, D210760, and

J210761. This proposed AD would require removal of the affected propeller governors from service. This proposed AD results from three reports received of failed propeller governors. We are proposing this AD to prevent loss of propeller pitch control, damage to the propeller governor, and internal damage to the engine, which could prevent continued safe flight or safe landing.

**DATES:** We must receive any comments on this proposed AD by May 14, 2010.

**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 Ontic Engineering and Manufacturing, Inc., 20400 Plummer Street, Chatsworth, CA 91311, e-mail: [Bill.nolan@ontic.com](mailto:Bill.nolan@ontic.com); telephone (818) 725-2323; fax (818) 725-2535; or e-mail: [Susan.hunt@ontic.com](mailto:Susan.hunt@ontic.com); telephone (818) 725-2121; fax (818) 725-2535, or on the Web at [http://www.ontic.com/pdf/SB-DES-353\\_Rev\\_A.pdf](http://www.ontic.com/pdf/SB-DES-353_Rev_A.pdf) for a copy of the service information identified in this proposed AD.

**FOR FURTHER INFORMATION CONTACT:** Roger Pesuit, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA, Transport Airplane Directorate, 3960 Paramount Blvd., Lakewood, CA 90712; e-mail: [roger.pesuit@faa.gov](mailto:roger.pesuit@faa.gov); telephone (562) 627-5251, fax (562) 627-5210.

#### **SUPPLEMENTARY INFORMATION:**

##### **Comments Invited**

We invite you to send us any written relevant data, views, or arguments regarding this proposal. Send your comments to an address listed under **ADDRESSES**. Include "Docket No. FAA-2010-0102; Directorate Identifier 2010-NE-09-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](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**

We received three reports of failure of Ontic Engineering and Manufacturing, Inc. propeller governors. One of the reports was of a Diamond DA-40 airplane losing propeller pitch control during flight. The propeller governor controls propeller pitch by regulating oil pressure to the propeller pitch change mechanism. Changes in governor oil pressure are made by small changes in axial displacement of the governor's pilot valve plunger assembly. A fly weight governor opposes a compressed spring that rides on a collar which forms a part of the pilot valve plunger assembly. Investigation revealed that the set screw securing the collar to the pilot valve plunger assembly shaft may not be installed properly on a batch of parts permitting the pilot valve plunger to float on the shaft. The pilot valve shaft plunger and captive thrust bearing are then free to move axially along the pilot valve shaft. When the pilot valve is unconstrained in the axial direction, the propeller governor cannot control oil pressure to the propeller pitch control mechanism. This results in a loss of propeller pitch control. Further, concurrent thrust bearing failure permits bearing debris to flow with the oil into the engine lubrication system. The engine in the incident airplane was internally damaged as a result of a