

#### IV. Statutory Basis and Text of the Rule

This amendment to the Commission's ethics rules is being adopted pursuant to statutory authority granted to OGE and to the Commission. These include 5 U.S.C. 7301; 5 U.S.C. App. (Ethics in Government Act of 1978); section 19 of the Securities Act of 1933, 15 U.S.C. 77s; section 23 of the Securities Exchange Act of 1934, 15 U.S.C. 78w; section 319 of the Trust Indenture Act of 1939, 15 U.S.C. 77sss; section 40 of the Investment Company Act of 1940, 15 U.S.C. 80a-39; and section 211 of the Investment Advisers Act of 1940, 15 U.S.C. 80b-11.

#### List of Subjects in 5 CFR Part 4401

Administrative practice and procedure, Conduct and ethics.

For the reasons set out in the preamble, Title 5, Chapter XXXIV of the Code of Federal Regulations is amended as follows:

#### PART 4401—SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR MEMBERS AND EMPLOYEES OF THE SECURITIES AND EXCHANGE COMMISSION

■ 1. The authority citation for part 4401 continues to read as follows:

**Authority:** 5 U.S.C. 7301; 5 U.S.C. App. (Ethics in Government Act of 1978); E.O. 12674, 54 FR 15159; 3 CFR 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547; 3 CFR, 1990 Comp., p. 306; 5 CFR 2635.105, 2635.403, 2635.803; 15 U.S.C. 77s, 78w, 77sss, 80a-37, 80b-11.

- 2. Section 4401.103 is amended by:
- a. Removing and reserving paragraph (c)(1)(ii);
  - b. Revising paragraph (c)(1)(iii);
  - c. Removing paragraph (d); and
  - d. Redesignating paragraph (e) as paragraph (d).

The revision reads as follows:

#### § 4401.103 Outside employment and activities.

\* \* \* \* \*

(c) \* \* \*

(1) \* \* \*

(iii) No employee shall undertake the following types of employment or activities:

(A) Employment with any entity regulated by the Commission;

(B) Employment or any activity directly or indirectly related to the issuance, purchase, sale, investment or trading of securities or futures on securities or a group of securities, except this prohibition does not apply to securities holdings or transactions permitted by § 4401.102;

(C) Employment otherwise involved with the securities industry; or

(D) Employment otherwise in violation of any applicable law, rule or regulation.

\* \* \* \* \*

Dated: April 4, 2011.

By the Commission.

**Elizabeth M. Murphy,**  
*Secretary.*

**Robert I. Cusick,**

*Director, Office of Government Ethics.*

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#### DEPARTMENT OF ENERGY

#### 10 CFR Part 430

[Docket Number EERE-2008-BT-TP-0020]

RIN 1904-AB89

#### Energy Conservation Program for Consumer Products: Decision and Order Granting 180-Day Extension of Compliance Date for Residential Furnaces and Boilers Test Procedure Amendments; Correction

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

**ACTION:** Decision and order; correction

**SUMMARY:** On March 31, 2011, the U.S. Department of Energy (DOE) published a Decision and Order in the **Federal Register** which granted 27 companies submitting petitions before the required date (*i.e.*, by February 17, 2011), a 180-day extension of the compliance date for recent amendments to the DOE test procedure for residential furnaces and boilers related to the standby mode and off mode energy consumption of these products. Recently, DOE received a petition dated February 17, 2011 from a 28th manufacturer, Viessmann Manufacturing Company, Inc., in which the manufacturer also requested the above-referenced 180-day extension. Although DOE received this petition well after February 17, 2011, the Department believes a number of factors, including international postal handling and Federal mail security screening, contributed to the delay in receipt of this petition. After review, DOE has decided to grant the petition. However, DOE was not able to include its determination regarding this petition in its March 31, 2011 Decision and Order, because publication was already underway. Through this correction notice, DOE is modifying its Decision and Order to add Viessmann Manufacturing Company, Inc., to the list of companies to whom the extension of the compliance date has been granted.

**DATES:** This correction to the above-referenced Decision and Order is effective April 11, 2011. For representation purposes, petitioners must comply with all applicable provisions of the amended DOE test procedure for residential furnaces and boilers starting on October 15, 2011.

**FOR FURTHER INFORMATION CONTACT:** Dr. Michael G. Raymond, U.S. Department of Energy, Building Technologies Program, Mail Stop EE-2J, 1000 Independence Avenue, SW., Washington, DC 20585-0121.

Telephone: (202) 586-9611. E-mail: [Michael.Raymond@ee.doe.gov](mailto:Michael.Raymond@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) 586-9507. E-mail: [Eric.Stas@hq.doe.gov](mailto:Eric.Stas@hq.doe.gov).

For information on how to access the docket or to view hard copies of the docket in the Resource Room, 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](mailto:Brenda.Edwards@ee.doe.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On March 31, 2011, DOE published a notice in the **Federal Register** (76 FR 17755) which announced receipt of petitions requesting a 180-day extension of the April 18, 2011 compliance date for representations associated with amendments to the DOE test procedure for residential furnaces and boilers in the October 20, 2010 final rule (75 FR 64621) from the following 27 companies: (1) Adams Manufacturing Company; (2) Allied Air Enterprises; (3) Bard Manufacturing Co. Inc.; (4) Boyertown Furnace; (5) Carrier Corporation; (6) Crown Boiler; (7) De Dietrich Boilers; (8) ECR International Inc.; (9) Goodman Manufacturing Company; (10) HTP Inc.; (11) Johnson Controls Inc.; (12) Laars Heating Systems Company; (13) Lennox International Inc.; (14) Lochinvar; (15) Newmac Furnace Company; (16) New Yorker Residential Heating Boilers; (17) Nordyne; (18) NY Thermal Inc.; (19) Peerless Boilers Heat LLC; (20) Raypak Inc.; (21) Rheem Manufacturing Company; (22) Slant/Fin; (23) Thermo Products LLC; (24) Trane; (25) Triangle Tube; (26) US Boiler Company; and (27) Weil-McLain.

In the same March 31, 2011 **Federal Register** notice, DOE published a

Decision and Order which granted to the above 27 petitioners the requested 180-day extension of the compliance date for recent amendments to the DOE test procedure for residential furnaces and boilers related to the standby mode and off mode energy consumption of these products.

Recently, DOE received a petition dated February 17, 2011 from a 28th manufacturer, Viessmann Manufacturing Company, Inc., in which the manufacturer also requested the above-referenced 180-day extension. Viessmann Manufacturing Company's petition recited many of the same arguments as the earlier petitioners regarding the undue hardship which the petitioner would face if the requested extension of the compliance date were not granted. DOE has determined that the petitioner has made its case and that the extension should be granted for the reasons stated in the March 31, 2011 Decision and Order.

## II. Conclusion

Although DOE received this petition well after February 17, 2011, the Department believes a number of factors, including international postal handling and Federal mail security screening, contributed to this delay in receipt of the petition from this 28th manufacturer. After review, DOE has decided to grant the petition. Through this correction notice, DOE is modifying its Decision and Order to add Viessmann Manufacturing Company, Inc., to the list of companies to whom the extension of the compliance date has been granted.

Issued in Washington, DC, on April 5, 2011.

**Kathleen Hogan,**

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

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 23

[Docket No. CE310; Special Conditions No. 23-250-SC

#### **Special Conditions: Diamond Aircraft Industry Model DA-40NG; Diesel Cycle Engine**

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

**ACTION:** Final special conditions; request for comments.

**SUMMARY:** These special conditions are issued for the Diamond Aircraft Industry (DAI) GmbH model DA-40NG the Austro Engine GmbH model E4 aircraft diesel engine (ADE) using turbine (jet) fuel. This airplane will have a novel or unusual design feature(s) associated with the installation of a diesel cycle engine utilizing turbine (jet) fuel. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

**DATES:** The effective date of these special conditions is April 1, 2011.

We must receive your comments by May 11, 2011.

**ADDRESSES:** Mail two copies of your comments to: Federal Aviation Administration, Regional Counsel, ACE-7, Attn: Rules Docket No. CE310, 901 Locust, Kansas City, MO 64106. You may deliver two copies to the Regional Counsel at the above address. Mark your comments: Docket No. CE310. You may inspect comments in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

**FOR FURTHER INFORMATION CONTACT:**

Peter L. Rouse, Federal Aviation Administration, Small Airplane Directorate, Aircraft Certification Service, ACE-111, 901 Locust, Kansas City, Missouri, 816-329-4135, fax 816-329-4090.

**SUPPLEMENTARY INFORMATION:** The FAA has determined that notice and opportunity for prior public comment hereon are impracticable because these procedures would significantly delay issuance of the design approval and thus delivery of the affected aircraft. In addition, the substance of these special conditions has been subject to the public comment process in several prior instances with no substantive comments received. The FAA therefore finds that good cause exists for making these special conditions effective upon issuance.

#### **Comments Invited**

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include

supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel about these special conditions. You can inspect the docket before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

We will consider all comments we receive by the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change these special conditions based on the comments we receive.

If you want us to let you know we received your comments on these special conditions, send us a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it back to you.

#### **Background**

On May 11, 2010 Diamond Aircraft Industry GmbH applied for an amendment to Type Certificate No. A47CE to include the new Model DA-40NG with the Austro Engine GmbH Model E4 ADE. The Model DA-40NG, which is a derivative of the model DA-40 currently approved under Type Certificate No. A47CE, is a fully composite, four place, single-engine airplane with a cantilever low wing, T-tail airplane with the Austro Engine GmbH Model E4 diesel engine and an increased maximum takeoff gross weight from 1150 kilograms (kg) to 1280 kg (2535 pounds (lbs) to 2816 lbs).

In anticipation of the reintroduction of diesel engine technology into the small airplane fleet, the FAA issued Policy Statement PS-ACE100-2002-004 on May 15, 2004, which identified areas of technological concern. Refer to this policy for a detailed summary of the FAA's development of diesel engine requirements.

The general areas of concern involve the power characteristics of the diesel engines, the use of turbine fuel in an airplane class that is typically powered by gasoline fueled engines and the vibration characteristics and failure modes of diesel engines. A review of the historical record of diesel engine use in aircraft and part 23 identified these concerns. The review identified specific regulatory areas requiring evaluation for applicability to diesel engine installations. These concerns are not considered universally applicable to all