DEPARTMENT OF ENERGY

10 CFR Part 431

[Docket Number EERE–2013–BT–STD–0030]

RIN 1904–AD01

Energy Conservation Program for Certain Commercial and Industrial Equipment: Proposed Determination of Natural Draft Commercial Packaged Boilers as Covered Industrial Equipment

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

ACTION: Proposed determination of coverage; withdrawal.

SUMMARY: The U.S. Department of Energy (DOE) withdraws its August 13, 2013, notice of proposed determination that natural draft commercial packaged boilers meet the criteria for covered equipment under Part A–1 of Title III of the Energy Policy and Conservation Act of 1975 (EPCA), as amended. 78 FR 49202. DOE is taking this action after consideration of comments received in response to the notice of proposed determination and other relevant rulemakings that indicate a common and long-standing understanding from interested parties that natural draft commercial packaged boilers are and have been covered equipment under part A–1 of Title III of EPCA.

DATES: The proposed determination is withdrawn August 25, 2015.

FOR FURTHER INFORMATION CONTACT:

Mr. James Raba, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies, EE–5B, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–8654. Email: *commercial_packaged_boilers@ee.doe.gov.*

Mr. Peter Cochran, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW., Washington, DC 20585. Telephone: (202) 586–9496. Email: *Peter.Cochran@hq.doe.gov.*

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I. Authority

Title III, Part C [1] of the Energy Policy and Conservation Act of 1975 (EPCA), Public Law 94–163, as amended, (42 U.S.C. 6311–6317, as codified), added by Public Law 95–619, Title IV, § 441(a), established the Energy Conservation Program for Certain Industrial Equipment, which includes commercial packaged boilers.[2] In addition to specifying a list of covered commercial and industrial equipment, EPCA contains provisions that enable the Secretary of Energy to classify additional types of commercial and industrial equipment as covered equipment. (42 U.S.C. 6311(1)(L))

II. Background

On August 13, 2013, the U.S. Department of Energy (DOE) published in the **Federal Register** a Notice of Proposed Determination (August 2013 NOPD) to clarify that natural draft commercial packaged boilers are covered equipment under EPCA. 78 FR 49202. Under EPCA, ''the term 'packaged boiler' means a boiler that is shipped complete with heating equipment, mechanical draft equipment, and automatic controls; usually shipped in one or more sections.'' (42 U.S.C. 6311(11)(B)) In the August 2013 NOPD, DOE sought to clarify its statutory authority to cover commercial packaged boilers that do not include mechanical draft equipment by proposing the following definition for natural draft commercial packaged boilers: The term ''natural draft commercial packaged boiler means a commercial packaged boiler designed to operate with negative pressure in the firebox and in the flue connection created by a chimney or the height of the unit itself, up to the draft control device. Such boilers do not require mechanical drafting equipment to vent combustion gases, but may include mechanical devices such as mechanical flue or stack dampers to limit the heat losses through the flue vent during off-cycle.'' 78 FR 49203. DOE also requested public comment on the proposed determination of coverage and proposed definition.

In parallel, DOE initiated a rulemaking to amend the energy conservation standards for commercial packaged boilers. On September 3, 2013, DOE published a notice of public meeting in the **Federal Register** that announced the availability of the framework document. 78 FR 54197. Subsequently, on November 20, 2014, DOE published another notice of public meeting (November 2014 NOPM) in the **Federal Register** that announced the availability of the preliminary analysis technical support document. 79 FR 69066. Both notices requested public comment from interested parties about various aspects of the rulemakings.

III. Discussion

DOE received several written comments that are relevant to the coverage determination of natural draft commercial packaged boilers in response both to the August 2013 NOPD and the November 2014 NOPM.

In response to the August 2013 NOPD, DOE received comments from the Air-Conditioning, Heating, and Refrigeration Institute (AHRI).

AHRI stated that the long time practices of both industry and DOE make clear that natural draft commercial packaged boilers are covered equipment subject to the efficiency standards established in accordance with EPCA, noting that the minimum efficiency standards specified for commercial boilers have been applied to all commercial packaged boiler models, natural draft or otherwise, for the past 20 years. AHRI further noted that the minimum efficiency standards specified for commercial boilers in American Society of Heating, Refrigeration, and Air-Conditioning Engineers (ASHRAE) Standard 90.1, ''Energy Standard for Buildings Except Low-Rise Residential Buildings'' (upon which the Federal standards are based) have been applied to all models since the first edition of the standard more than 35 years ago, and asserted that there should be no question that natural draft commercial packaged boilers are covered equipment subject to DOE's efficiency standards. Finally, AHRI suggested that if it is necessary to prevent ambiguity in the definition, DOE simply edit the definition to clarify that a commercial packaged boiler is shipped with mechanical draft equipment only if required, which AHRI asserted reflects the proper reading that the definition covers all types of boilers. (AHRI, No. 7 at pp. 1–2) [3]

In response to the November 2014 NOPM, DOE received comments from various interested parties, including

[1] For editorial reasons, upon codification in the United States Code (U.S.C.), Part C was re-designated Part A–1.

[2] All references to EPCA in this document refer to the statute as amended through Energy Efficiency Improvement Act of 2015, Public Law 114–11 (April 30, 2015).

[3] A notation in the form ''AHRI, No. 7 at pp. 1–2'' identifies a written comment: (1) Made by AHRI; (2) recorded as comment number 7 in the docket of this rulemaking (Docket No. EERE–2013–BT–STD–0030) and available for review at *www.regulations.gov;* and (3) which appears on pages 1 and 2 of comment number 7.

AHRI and Raypak Inc. Raypak argued that the industry has recognized, and there should be no question, that natural draft boilers have been covered under EPCA for many years. (Raypak, No. 35 at p. 2) AHRI commented that the minimum efficiency standards specified for commercial packaged boilers in EPCA have been applied to all models including natural draft for the past 20 years. AHRI also restated its position from previous comments (discussed above) that there should be no question that natural draft commercial packaged boilers are covered equipment subject to DOE's standards. (AHRI, No. 37 at p. 2)

In summary, comments received from interested parties, both from the August 2013 NOPD and the November 2014 NOPM, support DOE's understanding that packaged boilers, as currently defined under EPCA, include natural draft packaged boilers. Therefore, DOE concludes that it is not necessary to publish a final coverage determination for natural draft commercial packaged boilers and is withdrawing its notice of proposed determination.

IV. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this withdrawal notice.

List of Subjects in 10 CFR Part 431

Administrative practice and procedure, Confidential business information, Energy conservation, Reporting and recordkeeping requirements.

Issued in Washington, DC, on August 14, 2015.

Kathleen B. Hogan,

Deputy Assistant Secretary Energy Efficiency and Renewable Energy.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–3146; Directorate Identifier 2014–NM–249–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain The Boeing Company Model 777–200 series airplanes. This proposed AD was prompted by an evaluation by the design approval holder (DAH) indicating that the skin lap splices at certain stringers in certain fuselage sections are subject to widespread fatigue damage (WFD). This proposed AD would require inspections to detect cracking of fuselage skin lap splices in certain fuselage sections, and corrective actions if necessary; modification of left-side and right-side lap splices; and post-modification repetitive inspections for cracks in the modified lap splices, and corrective actions if necessary. We are proposing this AD to detect and correct fatigue cracking of the skin lap splices, and consequent risk of sudden decompression and the inability to sustain limit flight and pressure loads.

DATES: We must receive comments on this proposed AD by October 9, 2015.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–3146.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–3146; or in person at the Docket Management Facility 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 Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Haytham Alaidy, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6573; fax: 425–917–6590; email: *Haytham.Aaidy@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2015–3146; Directorate Identifier 2014–NM–249–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because 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 we receive about this proposed AD.

Discussion

Structural fatigue damage is progressive. It begins as minute cracks, and those cracks grow under the action of repeated stresses. This can happen because of normal operational conditions and design attributes, or because of isolated situations or incidents such as material defects, poor fabrication quality, or corrosion pits, dings, or scratches. Fatigue damage can occur locally, in small areas or structural design details, or globally. Global fatigue damage is general degradation of large areas of structure with similar structural details and stress levels. Multiple-site damage is global damage that occurs in a large structural element such as a single rivet line of a lap splice joining two large skin panels. Global damage can also occur in multiple elements such as adjacent frames or stringers. Multiple-site-damage and multiple-element-damage cracks are typically too small initially to be reliably detected with normal