

§ 1400.603 Commensurate reduction.

(a) Any program payment or benefit subject to this part provided to an entity, general partnership or joint venture shall be reduced by an amount commensurate with the direct and indirect ownership interest in the entity, general partnership, or joint venture of each individual or entity determined to have an average adjusted gross income in excess of this limitation under the standards elsewhere provided in this subpart for the direct recipient of such payments.

(b) Ownership interest in an entity shall be reviewed to the fifth level of ownership to determine whether a commensurate reduction is applicable and the extent of such reduction. If an ownership interest is not held by an individual in any of the first five levels of ownership, no payment or benefit shall be made with respect to such interest.

Signed in Washington, DC, on October 21, 2002.

James R. Little,

Executive Vice President, Commodity Credit Corporation.

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DEPARTMENT OF ENERGY**Office of Energy Efficiency and Renewable Energy****10 CFR Part 430**

[Docket Nos. EE-RM/TP-02-002; EE-RM/STD-02-330]

Energy Conservation Program for Consumer Products: Test Procedure for Residential Central Air Conditioners and Heat Pumps; Energy Conservation Standards for Small Duct High Velocity Air Conditioners and Heat Pumps

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

ACTION: Notice of public workshop.

SUMMARY: The Department of Energy (DOE or Department) is convening a public workshop to discuss and receive comments on several issues related to test procedures for residential central air conditioners and heat pumps and energy conservation standards for small-duct high-velocity (SDHV) central air conditioners and heat pumps.

DATES: The public workshop will be held on Friday, December 13, 2002, from 9 a.m. to 4 p.m. Comments submitted by electronic mail will be

considered timely if they are submitted by 11:59 p.m. (Eastern time) January 8, 2003. Written comments, data and information, and a signed original with an electronic copy on diskette, must be received at the Department of Energy by January 8, 2003.

ADDRESSES: The workshop will be held at the U.S. Department of Energy, Forrestal Building, Room 1E-245, 1000 Independence Avenue SW., Washington, DC 20585. (Please note that foreign nationals visiting DOE Headquarters are subject to advance security screening procedures. If you are a foreign national and wish to participate in the workshop, please inform DOE of this fact as soon as possible by contacting Ms. Crystal Branson at (202) 586-6448 so that the necessary procedures can be completed.)

On or about November 15, 2002, DOE will place a set of presentations describing the Department's research on these issues and workshop agenda on the DOE Web site at: http://www.eren.doe.gov/buildings/codes_standards/. Please submit comments, data and information electronically. These should be sent to the following Internet address: CAC@ee.doe.gov. Electronic comments must be submitted as a WordPerfect 5.1/6.1/8 format file and avoid the use of special characters or any form of encryption. Comments in electronic format should also be identified by the docket number EE-RM/STD-02-330 (for SDHV comments), or EE-RM/TP-02-002 (for test procedure comments), and wherever possible carry the electronic signature of the author. Absent an electronic signature, comments submitted electronically must be followed and authenticated by submitting the signed original paper document. No telefacsimiles (telefaxes) will be accepted.

Written (paper) comments may be submitted to: Ms. Crystal Branson, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Energy Conservation Program for Consumer Products: Energy Conservation Standards and Test Procedures for Residential Central Air Conditioners and Heat Pumps, Docket Number: EE-RM/TP-02-002 (for test procedure comments); EE-RM/STD-02-330 (for SDHV comments), EE-2J, 1000 Independence Avenue, SW., Washington, DC 20585-0121. Telephone: (202) 586-6448. Please submit one signed copy and a computer diskette or CD (in WordPerfect™ 8 format)—no telefacsimiles.

Copies of the transcript of the public workshop, public comments received, and this notice may be read (or copied) at the Freedom of Information Reading Room, U.S. Department of Energy, Forrestal Building, Room 1E-190, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-3142, between the hours of 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Raymond, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, EE-2J, 1000 Independence Avenue, SW., Washington, DC 20585-0121, (202) 586-9611, e-mail: michael.raymond@ee.doe.gov, or Mr. Michael W. Bowers, Esq., U.S. Department of Energy, Office of General Counsel, GC-72, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-8140, e-mail: Mike.Bowers@hq.doe.gov.

SUPPLEMENTARY INFORMATION: Part B of Title III of the Energy Policy and Conservation Act of 1975 (EPCA or Act), Public Law 94-163, as amended by the National Energy Conservation Policy Act (NECPA), Public Law 95-619; the National Appliance Energy Conservation Act of 1987 (NAECA), Public Law 100-12; the National Appliance Energy Conservation Amendments of 1988 (NAECA 1988), Public Law 100-357; and the Energy Policy Act of 1992 (EPACT), Public Law 102-486, created the Energy Conservation Program for Consumer Products other than Automobiles. The consumer products subject to this program include residential central air conditioners and central air conditioning heat pumps. (42 U.S.C. 6295(d)).

The Department has been pursuing a rulemaking activity for the purpose of determining whether amended energy conservation standards for the niche central air conditioning products with small ducts and high velocities are justified. The Department also is developing additional revisions it intends to propose to the test procedures for residential central air conditioners and heat pumps. These revisions concern: (1) Establishing new default values for the cooling mode cyclic degradation coefficients; (2) increasing the minimum static pressure used in testing small duct high velocity systems; (3) testing of two-capacity heat pumps; and (4) acceptable verification units for the alternative rating method.

The workshop announced in today's notice is the next step in the rulemaking process for determining whether to

amend the energy conservation standards for small-duct high-velocity air conditioners and heat pumps. In a notice of final rulemaking published on May 23, 2002 (67 FR 36368), DOE established amended energy conservation standards for all classes of residential central air conditioners and heat pumps except small-duct high-velocity systems. In that final rule, DOE created a separate product class for SDHV systems, but it deferred establishing amended standards pending completion of a new test procedure and the analysis needed to support new standards. The May 23, 2002, final rule defines "small duct high-velocity system" to mean a heating and cooling product that contains a blower and indoor coil combination that: (1) Is designed for, and produces, at least 1.2 inches of external static pressure when operated at the certified air volume rate of 220–350 CFM per rated ton of cooling; and (2) when applied in the field, uses high velocity room outlets generally greater than 1000 fpm which have less than 6.0 square inches of free area. (See revision to § 430.2 at 67 FR 36406). The workshop announced in today's notice is also being held to consider the additional revisions to DOE's test procedure for central air conditioners and heat pumps mentioned in the preceding paragraph of this notice.

A detailed agenda for this workshop is currently under development and as noted above, will be posted on the Department's Web site on or about November 15, 2002. The agenda items will include issues related to the engineering and life-cycle cost methodology used in the small-duct high-velocity standards rulemaking, and the methodology and data used to derive new default values for the cooling mode cyclic degradation coefficients. For each agenda item, the Department will make a presentation summarizing the current status and will initiate a discussion regarding the accuracy and completeness of data and analysis tools. During these discussions, the Department is particularly interested in receiving comments and views of interested parties and possible approaches to enhance the accuracy of the analysis tools and data. The Department encourages those who wish to participate in the workshop to make presentations that address these issues. If you would like to make a presentation during the workshop, please inform Ms. Branson at least two weeks before the date of the workshop and provide her with a copy of your written presentation

material at least one week before the date of the workshop.

The 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 antitrust law. After the meeting and a period for written statements, the Department will begin collecting data and conducting the analyses discussed at the workshop.

If you would like to participate in the workshop, to receive workshop materials, or to be added to the DOE mailing list to receive future notices and information regarding distribution transformers, please contact Ms. Crystal Branson at (202) 586–6448.

Issued in Washington, DC, on October 22, 2002.

David K. Garman,

Assistant Secretary, Energy Efficiency and Renewable Energy.

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COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 4

RIN 3038–AB34

Exclusion for Certain Otherwise Regulated Persons From the Definition of the Term "Commodity Pool Operator"

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rule.

SUMMARY: The Commodity Futures Trading Commission (Commission or CFTC) is proposing to amend Rule 4.5 by adding an alternative limitation on the non-hedge activities of eligible persons claiming relief under the rule (Proposal). The Commission also is taking a "no-action" position to permit the use of this alternative criterion pending final action on an amendment to the rule. The Proposal and the "no-action" position would not affect the ability of qualifying entities under Rule 4.5 to engage in unlimited trading for *bona fide* hedging purposes.

DATES: Comments on the proposed rule change must be received by December 12, 2002.

ADDRESSES: Comments on the proposed rule should be sent to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC

20581. Comments may be sent by facsimile transmission to (202) 418–5528, or by e-mail to secretary@cftc.gov. Reference should be made to "Proposed Amendment to Rule 4.5 for Non-Hedge Activity."

FOR FURTHER INFORMATION CONTACT: Barbara S. Gold, Associate Director, Division of Clearing and Intermediary Oversight, or Ronald Hobson, Industry Economist, Office of the Chief Economist, Commodity Futures Trading Commission, 1155 21st Street, NW., Washington, DC 20581, telephone number: (202) 418–5441 or (202) 418–5285, respectively; facsimile number: (202) 418–5536, or (202) 418–5660, respectively; and electronic mail: bgold@cftc.gov or rhobson@cftc.gov, respectively.

SUPPLEMENTARY INFORMATION:

I. Background

The term "commodity pool operator" (CPO) is defined in section 1a(5) of the Commodity Exchange Act (Act),¹ to mean:

[A]ny person engaged in a business that is of the nature of an investment trust, syndicate, or similar form of enterprise, and who, in connection therewith, solicits, accepts, or receives from others, funds, securities, or property, either directly or through capital contributions, the sale of stock or other forms of securities, or otherwise, for the purpose of trading in any commodity for future delivery on or subject to the rules of any contract market or derivatives transaction execution facility, *except that the term does not include such persons not within the intent of the definition of the term as the Commission may specify by rule, regulation, or order.* [Emphasis added.]²

In connection with the adoption of the Futures Trading Act of 1982,³ the Senate Committee on Agriculture, Nutrition, and Forestry (Committee) considered an amendment to the Act that would have exempted certain persons from the CPO definition. In lieu of adopting such an amendment to the CPO definition, the Committee directed the Commission to issue regulations that would have the effect of providing relief from regulation as a CPO for certain otherwise regulated persons with respect to their operation of certain collective investment vehicles that met certain criteria. These criteria specified, among other things, that "the entity uses commodity futures or options thereon

¹ 7 U.S.C. 1a(5) (2002).

² Both the Act and the Commission's rules issued thereunder can be accessed through the Commission's Web site: www.cftc.gov/cftc/cftclawreg.htm#cea. Commission rules cited to herein are found at 17 CFR chapter I (2002).

³ Pub. L. No. 97–444, 96 Stat. 2294 *et seq.* (1983).