

Department may disclose those records as a routine use to a party, counsel, representative, or witness.

(7) *Freedom of Information Act (FOIA) or Privacy Act Advice Disclosure.* The Department may disclose records to the DOJ or the OMB if the Department concludes that disclosure is desirable or necessary in determining whether particular records are required to be disclosed under the FOIA or Privacy Act.

(8) *Disclosure to the DOJ.* The Department may disclose records to the DOJ to the extent necessary to obtain DOJ advice on any matter relevant to an audit, inspection, or other inquiry related to the programs covered by this system.

(9) *Congressional Member Disclosure.* The Department may disclose the records of an individual to a member of Congress or the member's staff in response to an inquiry from the member made at the written request of that individual. The member's right to the information is no greater than the right of the individual who requested the inquiry.

(10) *Disclosure in the Course of Responding to Breach of Data.* The Department may disclose records from this system of records to appropriate agencies, entities, and persons when: (a) The Department suspects or has confirmed that the security or confidentiality of information in the FMS has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise, there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of the FMS or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and, (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Records are maintained in hardcopy, microfilm, magnetic storage and optical storage media, such as tape, disk, etc.

**RETRIEVABILITY:**

Records in this system are retrievable by social security number or name of borrower.

**SAFEGUARDS:**

This system of records limits data access to Department and contract staff on a need-to-know basis and controls individual users' ability to access and alter records within the system. All users of this system of records are given a unique user identification and are required to establish a password that adheres to the Federal Student Aid Information Security and Privacy Policy requiring a complex password that must be changed every 60–90 days in accordance with Department information technology standards. Annually, all users of FMS must acknowledge the completion of FMS-specific security awareness training before they can obtain or renew their access to this system of records. An automated audit trail documents the identity of each person and device having access to FMS.

**RETENTION AND DISPOSAL:**

FMS' records retention and disposal schedule is in compliance with the Department's Records Retention and Disposition Schedule (RRDS) policy and the guidance specified in the National Archives and Records Administration (NARA) General Records Schedule (GRS) 7 entitled "Expenditure Accounting Records."

**SYSTEM MANAGER(S) AND ADDRESS:**

(1) Financial Management System (FMS)—Director, Financial Management Group, OCFO, Federal Student Aid, U.S. Department of Education, 830 1st Street, NE., UCP, Washington, DC 20202–5345.

(2) Direct Loan Servicing System (DLSS)—Director, Servicing Group, Borrower Services, Federal Student Aid, U.S. Department of Education, 830 1st Street, NE., UCP, Washington, DC 20202–5345.

(3) Direct Loan Consolidation System (DLCS)—Director, Consolidation Group, Borrower Services, Federal Student Aid, U.S. Department of Education, 830 1st Street, NE., UCP, Washington, DC 20202–5345.

**NOTIFICATION PROCEDURE:**

If you wish to determine whether a record exists regarding you in the system of records, provide the system manager with your name, date of birth, and social security number. Your requests must meet the requirements of the regulations in 34 CFR 5b.5, including proof of identity.

**RECORD ACCESS PROCEDURE:**

If you wish to gain access to a record in this system of records, provide the system manager with your name, date of birth, and social security number. Your

requests for access to a record must meet the requirements of the regulations in 34 CFR 5b.5, including proof of identity.

**CONTESTING RECORD PROCEDURE:**

If you wish to contest the content of a record regarding you in the system of records, contact the system manager. Your request to correct or amend a record must meet the requirements of the regulations in 34 CFR 5b.7, including proof of identity, specification of the particular record that you are seeking to have changed, and the written justification for making such a change.

**RECORD SOURCE CATEGORIES:**

Information in this system is obtained from other Department and contractor-managed systems, such as the Direct Loan Servicing, Direct Loan Consolidation System, Conditional Disability Discharge Tracking System, Campus Based Student Loan System, as well as manual and electronic processes internal to Federal Student Aid.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

[FR Doc. E7–25520 Filed 12–31–07; 8:45 am]

BILLING CODE 4000–01–P

**DEPARTMENT OF ENERGY**

**Office of Energy Efficiency and Renewable Energy**

**Energy Conservation Program for Consumer Products: Publication of the Petition for Waiver From Sanyo Fisher Company and Granting of the Application for Interim Waiver From the Department of Energy Residential and Commercial Central Air Conditioner and Heat Pump Test Procedures [Case No. CAC–017]**

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

**ACTION:** Notice of petition for waiver, granting of application for interim waiver, and request for comments.

**SUMMARY:** This notice announces receipt of and publishes a Petition for Waiver from Sanyo Fisher Company, (Sanyo). The Petition for Waiver (hereafter "Sanyo Petition") requests a waiver of the Department of Energy (DOE) test procedures applicable to residential and commercial central air conditioners and heat pumps. The waiver request is specific to the Sanyo Variable Refrigerant Flow (VRF) ECO-i multi-split heat pumps and heat recovery systems. Through this document, DOE

is: (1) Soliciting comments, data, and information with respect to the Sanyo Petition; and (2) granting an Interim Waiver to Sanyo from the DOE test procedures for residential and commercial central air conditioners and heat pumps.

**DATES:** DOE will accept comments, data, and information with respect to the Sanyo Petition until, but no later than February 1, 2008.

**ADDRESSES:** You may submit comments, identified by case number [CAC-017], by any of the following methods:

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

- *E-mail:* [Michael.Raymond@ee.doe.gov](mailto:Michael.Raymond@ee.doe.gov). Include either the case number [CAC-017], and/or "Sanyo Petition" in the subject line of the message.

- *Mail:* Ms. Brenda Edwards-Jones, U.S. Department of Energy, Building Technologies Program, Mailstop EE-2], Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585-0121. Telephone: (202) 586-2945. Please submit one signed original paper copy.

- *Hand Delivery/Courier:* Ms. Brenda Edwards-Jones, U.S. Department of Energy, Building Technologies Program, 950 L'Enfant Plaza, SW., Washington, DC 20585-0121. Please submit one signed original paper copy.

**Instructions:** All submissions received must include the agency name and case number for this proceeding. Submit electronic comments in WordPerfect, Microsoft Word, Portable Document Format (PDF), or text (American Standard Code for Information Interchange (ASCII) file format, and avoid the use of special characters or any form of encryption. Wherever possible, include 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. DOE does not accept telefacsimiles (faxes).

Any person submitting written comments must also send a copy of such comments to the petitioner, pursuant to 10 CFR 430.27(d) and 10 CFR 431.401(d). The contact information for the petitioner is: Mr. Davis Watkins, Vice President, Applied Products Group, Sanyo Fisher Company, 1690 Roberts Blvd., NW., Suite 110, Kennesaw, GA 30144. Telephone: (678) 384-3112. E-mail: [dwatkins@sss.sanyo.com](mailto:dwatkins@sss.sanyo.com).

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.

**Docket:** For access to the docket to review the documents relevant to this matter, you may visit the U.S. Department of Energy, 950 L'Enfant Plaza (Resource Room of the Building Technologies Program), Washington, DC, (202) 586-2945, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Available documents include the following items: (1) This notice; (2) public comments received; (3) the Petition for Waiver and Application for Interim Waiver; and (4) prior DOE rulemakings regarding central air conditioners and heat pumps. Please call Ms. Brenda Edwards-Jones at the above telephone number for additional information regarding visiting the Resource Room. Please note that DOE's Freedom of Information Reading Room (formerly Room 1E-190 at the Forrestal Building) is no longer housing rulemaking materials.

**FOR FURTHER INFORMATION CONTACT:** Dr. Michael G. Raymond, U.S. Department of Energy, Building Technologies Program, Mail Stop EE-2], Forrestal Building, 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).

Ms. Francine Pinto or Mr. Eric Stas, U.S. Department of Energy, Office of the General Counsel, Mail Stop GC-72, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585-0103. Telephone: (202) 586-9507. E-mail: [Francine.Pinto@hq.doe.gov](mailto:Francine.Pinto@hq.doe.gov) or [Eric.Stas@hq.doe.gov](mailto:Eric.Stas@hq.doe.gov).

#### **SUPPLEMENTARY INFORMATION:**

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##### **I. Background and Authority**

Title III of the Energy Policy and Conservation Act (EPCA) sets forth a variety of provisions concerning energy efficiency. Part B of Title III establishes the "Energy Conservation Program for Consumer Products Other Than Automobiles." (42 U.S.C. 6291-6309) Similar to the Program in Part B, Part C of Title III provides for an energy

efficiency program titled "Certain Industrial Equipment," which includes commercial air conditioning and heating equipment, package boilers, water heaters, and other types of commercial equipment. (42 U.S.C. 6311-6317)

This notice involves residential products under Part B, as well as commercial equipment under Part C. Under both parts, the statute specifically includes definitions, test procedures, labeling provisions, energy conservation standards, and the authority to require information and reports from manufacturers. (42 U.S.C. 6291-6296; 6311-6316) With respect to test procedures, both parts authorize the Secretary of Energy (the Secretary) to prescribe test procedures that are reasonably designed to produce results which reflect energy efficiency, energy use, and estimated annual operating costs, and that are not unduly burdensome to conduct. (42 U.S.C. 6293(b)(3); 6314(a)(2))

Relevant to the current Petition for Waiver, the test procedure for residential central air conditioning and heat pump products is set forth in 10 CFR Part 430, Subpart B, Appendix M. For commercial package air conditioning and heating equipment, EPCA provides that "the test procedures shall be those generally accepted industry testing procedures or rating procedures developed or recognized by the Air-Conditioning and Refrigeration Institute [ARI] or by the American Society of Heating, Refrigerating and Air-Conditioning Engineers [ASHRAE], as referenced in ASHRAE/IES [Illuminating Engineering Society of North America] Standard 90.1 and in effect on June 30, 1992." (42 U.S.C. 6314(a)(4)(A)) Under 42 U.S.C. 6314(a)(4)(B), the statute further directs the Secretary to amend the test procedure for a covered commercial product if the industry test procedure is amended, unless the Secretary determines that such a modified test procedure does not meet the statutory criteria set forth in 42 U.S.C. 6314(a)(2) and (3).

On December 8, 2006, DOE published a final rule in the **Federal Register** adopting test procedures for commercial package air conditioning and heating equipment, effective January 8, 2007. 71 FR 71340. DOE adopted ARI Standard 210/240-2003 for commercial package air conditioning and heating equipment with capacities <65,000 British thermal units per hour (Btu/h) and ARI Standard 340/360-2004 for commercial package air conditioning and heating equipment with capacities ≥65,000 Btu/h and <240,000 Btu/h. *Id.* at 71371. Pursuant

to this rulemaking, DOE's regulations at 10 CFR 431.95(b)(2) incorporate by reference the relevant ARI standards, and DOE's regulations at 10 CFR 431.96 direct manufacturers of commercial package air conditioning and heating equipment to use the appropriate procedure when measuring energy efficiency of those products. (The cooling capacities of Sanyo's ECO-i VFR commercial and residential multi-split products respectively fall in the ranges covered by ARI Standard 340/360-2004 and the DOE test procedure for residential products referred to above.)

DOE's regulations contain provisions allowing a person to seek a waiver from the test procedure requirements for covered consumer products, if the petitioner's basic model contains one or more design characteristics that prevent testing according to the prescribed test procedures, or if the test procedures may evaluate the basic product in a manner so unrepresentative of its true energy consumption as to provide materially inaccurate comparative data. 10 CFR 430.27(a)(1). The waiver provisions for commercial equipment are substantively identical to those for covered consumer products and are found at 10 CFR 431.401(a)(1). Petitioners must include in their petition any alternate test procedures known to evaluate the basic model in a manner representative of its energy consumption. 10 CFR 430.27(b)(1)(iii); 10 CFR 431.401(b)(1)(iii). The Assistant Secretary for Energy Efficiency and Renewable Energy (the Assistant Secretary) may grant the waiver subject to conditions, including adherence to alternate test procedures. 10 CFR 430.27(l); 10 CFR 431.401(f)(4). Waivers generally remain in effect until the effective date of a final rule which prescribes amended test procedures appropriate to the model series manufactured by the petitioner, thereby eliminating any need for the continuation of the waiver. 10 CFR 430.27(m); 431.401(g).

The waiver process also permits parties submitting a Petition for Waiver to file an Application for Interim Waiver from the prescribed test procedure requirements. 10 CFR 430.27(a)(2); 10 CFR 431.401(a)(2). The Assistant Secretary will grant an Interim Waiver request if it is determined that the applicant will experience economic hardship if the Interim Waiver is denied, if it appears likely that the Petition for Waiver will be granted, and/or the Assistant Secretary determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the Petition for Waiver. 10 CFR 430.27(g); 10 CFR

431.401(e)(3). An Interim Waiver remains in effect for a period of 180 days or until DOE issues its determination on the Petition for Waiver, whichever is sooner, and may be extended for an additional 180 days, if necessary. 10 CFR 430.27(h); 10 CFR 431.401(e)(4).

## II. Petition for Waiver

On February 22, 2007, Sanyo filed a Petition for Waiver from the test procedures applicable to residential and commercial package air-conditioning and heating equipment and an Application for Interim Waiver. The applicable test procedure for Sanyo's residential ECO-i multi-split products is the DOE residential test procedure found in 10 CFR Part 430, Subpart B, Appendix M. For Sanyo's commercial ECO-i multi-split products, the applicable test procedure is ARI 340/360-2004, because, as discussed in the previous section I above (Background and Authority), this is the test procedure specified in Tables 1 and 2 to 10 CFR 431.96.

Sanyo seeks a waiver from the DOE test procedures for this product class on the grounds that its ECO-i multi-split heat pump and heat recovery systems contain design characteristics that prevent testing according to the current DOE test procedures. Specifically, Sanyo asserts that the two primary factors that prevent testing of multi-split variable speed products, regardless of manufacturer, are the same factors stated in the waiver granted to Mitsubishi Electric & Electronics USA, Inc. (Mitsubishi) for a similar line of commercial multi-splits:

- Testing laboratories cannot test products with so many indoor units.
- There are too many possible combinations of indoor and outdoor units to test.

69 FR 52660, 52661 (August 27, 2004).

Further, Sanyo states that its ECO-i product offering is a multi-split system incorporating a diverse amount and configuration of indoor units for connection to a single outdoor unit, and that it is impractical to test the performance of each system under the current DOE test procedure. The number of connectable indoor units for each outdoor unit ranges from 6 to 28. Furthermore, the indoor units are designed to operate at many different external static pressure values, which compounds the difficulty of testing. A testing facility could not manage proper airflow at several different external static pressure values for the many indoor units that would be connected to an ECO-i outdoor unit.

Accordingly, Sanyo requests that DOE grant a test procedure waiver for its ECO-i product designs, until a suitable test method can be prescribed. Furthermore, Sanyo states that failure to grant the waiver would result in economic hardship because it would prevent the company from marketing its ECO-i products. Also, Sanyo states that it is willing to work closely with DOE, the Air-Conditioning and Refrigeration Institute (ARI), and other agencies to develop appropriate test procedures, as necessary.

## III. Application for Interim Waiver

On February 22, 2007, in addition to its Petition for Waiver, Sanyo also submitted an Application for Interim Waiver to DOE. Sanyo's Application for Interim Waiver does not provide sufficient information to evaluate the level of economic hardship Sanyo will likely experience if its Application for Interim Waiver is denied. However, in those instances where the likely success of the Petition for Waiver has been demonstrated, based upon DOE having granted a waiver for a similar product design, it is in the public interest to have similar products tested and rated for energy consumption on a comparable basis. DOE has previously granted Interim Waivers to Fujitsu, Samsung, and Daikin for comparable residential and commercial multi-split air conditioners and heat pumps. 70 FR 5980 (Feb. 4, 2005); 70 FR 9629 (Feb. 28, 2005); 72 FR 53237 (Sept. 18, 2007), respectively.

Moreover, as noted above, DOE approved the Petition for Waiver from Mitsubishi for its comparable line of commercial multi-split air conditioners and heat pumps. 69 FR 52660 (August 27, 2004). The two principal reasons for granting these waivers also apply to Sanyo's VRV-II-S products: (1) Test laboratories cannot test products with so many indoor units<sup>1</sup>; and (2) it is impractical to test so many combinations of indoor units with each outdoor unit. Thus, DOE has determined that it is likely that Sanyo's Petition for Waiver will be granted for its new ECO-i multi-split models. Therefore, *it is ordered that*:

The Application for Interim Waiver filed by Sanyo is hereby granted for Sanyo's ECO-i multi-split central air conditioners and central air-conditioning heat pumps, subject to the specifications and conditions below.

<sup>1</sup> According to the Sanyo petition, up to 28 indoor units are possible candidates for testing of its residential and commercial multi-split air conditioners and heat pumps. However, DOE believes that the practical limits for testing would be about five units.

The Interim Waiver applies to the following models:

1. Sanyo shall not be required to test or rate its ECO-i residential products on the basis of the currently applicable test procedure, which is set forth in 10 CFR

430, Subpart B, Appendix M. Sanyo shall not be required to test or rate its ECO-i commercial products on the basis of the currently applicable test procedure, which is set forth in ARI Standard 340/360–2004.

2. Sanyo shall be required to test and rate its ECO-i products according to the alternate test procedure as set forth below in section IV(3), “Alternate test procedure.”

*Outdoor units:*

**ECO-I OUTDOOR MODEL IDENTIFICATION**

Model #	Nominal Capacity		Type	Phase	Voltage	Connectable Indoor Units
	Cooling	Heating				
CHX3652 .....	38,200	42,700	Heat Pump .....	1	208–230	6
CHX06052 .....	52,900	60,000	Heat Pump .....	1	208–230	9
CHDX09053 .....	95,500	107,500	Heat Pump .....	3	208–230	16
CHDZ09053 .....	95,500	107,500	Heat Recovery (Simultaneous heating/cooling).	3	208–230	16
CHDX14053 .....	153,600	170,600	Heat Pump .....	3	208–230	28
CHDZ14053 .....	153,600	170,600	Heat Recovery (Simultaneous heating/cooling).	3	208–230	28

*Indoor units:*

- AHX\*\*52 Series; Ceiling Cassette, 1 Way Air Discharge, 7,500/9,600/12,000 BTU/hr nominal capacities.
- DHX\*\*52 Series; Concealed Ducted, Medium External Static, 36,000/47,800 BTU/hr nominal capacities.
- FHX\*\*52 Series; Exposed Floor Standing, 7,500/9,600/12,000/19,000/25,000 BTU/hr nominal capacities.
- FMHX\*\*52 Series; Concealed Floor Standing, 7,500/9,600/12,000/19,000/25,000 BTU/hr nominal capacities.
- KHX\*\*52 Series; Wall Mounted, 7,500/9,600/12,000/19,000/25,000 BTU/hr nominal capacities.
- LHX\*\*52 Series; Ceiling Mount Slim Design 1 Way Air Discharge, 12,000/19,000/25,000 BTU/hr nominal capacities.
- SHX\*\*52 Series; Ceiling Cassette, 2 Way Air Discharge, 7,500/9,600/12,000/19,000/25,000/36,000/47,800 BTU/hr nominal capacities.
- THX\*\*52 Series; Ceiling Suspended, 12,000/19,000/25,000 BTU/hr nominal capacities.
- UHX\*\*52 Series; Concealed Ducted, Low External Static, 7,500/9,600/12,000/19,000/25,000/36,000 BTU/hr nominal capacities.
- UMHX\*\*52 Series; Concealed Slim Ducted, Low External Static, 7,500/9,600/12,000/19,000/25,000 BTU/hr nominal capacities.
- XHX\*\*52 Series; Ceiling Cassette, 4 Way Air Discharge, 12,000/19,000/25,000/36,000 BTU/hr nominal capacities.
- XMHX\*\*52 Series, Mini Ceiling Cassette, 4 Way Air Discharge, 7,500/9,600/12,000/19,000/25,000 BTU/hr nominal capacities.

This Interim Waiver is conditioned upon the presumed validity of

statements, representations, and documentary materials provided by the petitioner. DOE may revoke or modify this Interim Waiver at any time upon a determination that the factual basis underlying the Petition for Waiver is incorrect, or upon a determination that the results from the alternate test procedure are unrepresentative of the basic models’ true energy consumption characteristics.

**IV. Alternate Test Procedure**

In response to two recent Petitions for Waiver from Mitsubishi, DOE specified an alternate test procedure to provide a basis from which Mitsubishi could test and make valid energy efficiency representations for its R410A CITY MULTI products, as well as for its R22 multi-split products. The Mitsubishi petitions, including the alternate test procedure, were published in the **Federal Register** on April 9, 2007. 72 FR 17528, 17532. For similar reasons, DOE believes that alternate test procedures are necessary here.

In general, DOE understands that existing testing facilities have a limited ability to test multiple indoor units at one time, and the number of possible combinations of indoor and outdoor units for some variable refrigerant flow zoned systems is impractical to test. We further note that subsequent to the waiver that DOE granted for Mitsubishi’s R22 multi-split products, ARI formed a committee to discuss the issue and to work on developing an appropriate testing protocol for variable refrigerant flow systems. However, to date, no additional test methodologies have been adopted by the committee or submitted to DOE.

Therefore, as discussed below, DOE is including an alternate test procedure as a condition in granting the Interim Waiver for Sanyo’s products, and plans to consider the same alternate test procedure in the context of the subsequent Decision and Order pertaining to Sanyo’s Petition for Waiver. Utilization of this alternate test procedure will allow Sanyo to test and make energy efficiency representations for its ECO-i products. More broadly, DOE has also applied a similar alternate test procedure to other existing waivers for similar residential and commercial central air conditioners and heat pumps. Such cases include Samsung’s Decision and Order for its multi-split products at 72 FR 71387 (Dec. 17, 2007), and Fujitsu’s Decision and Order for its multi-split products at 72 FR 71383 (Dec. 17, 2007). As noted above, the alternate test procedure has been applied to Mitsubishi’s Petition for Waiver for its R410A CITY MULTI and R22 multi-split products. 72 FR 17528 (April 9, 2007).

DOE believes that an alternate test procedure is needed so that manufacturers of such products can make valid and consistent representations of energy efficiency for their air-conditioning products. In the present case, DOE is modifying the alternate test procedure taken from the above-referenced waiver granted to Mitsubishi for its R410A CITY MULTI products, and plans to consider inclusion of the following similar waiver language in the Decision and Order for Sanyo’s ECO-i multi-split air conditioner and heat pump models:

(1) The “Petition for Waiver” filed by Sanyo Fisher Company (Sanyo) is

hereby granted as set forth in the paragraphs below.

(2) Sanyo shall not be required to test or rate its ECO-i variable refrigerant volume multi-split air conditioner and heat pump products listed above in section III, on the basis of the current test procedures, but shall be required to test and rate such products according to the alternate test procedure as set forth in paragraph (3).

(3) *Alternate test procedure.*

(A) Sanyo shall be required to test the products listed in section III above according to the test procedures for central air conditioners and heat pumps prescribed by DOE at 10 CFR Parts 430 and 431, except that:

(i) For products covered by 10 CFR Part 430 (consumer products), Sanyo shall not be required to comply with: (1) The first sentence in 10 CFR 430.24(m)(2), which refers to “that combination manufactured by the condensing unit manufacturer likely to have the largest volume of retail sales”; and (2) the third sentence in 10 CFR 430(m)(2), including the provisions of 10 CFR 430(m)(2)(i) and (ii). Instead of testing the combinations likely to have the highest volume of retail sales, Sanyo may test a “tested combination” selected in accordance with the provisions of subparagraph (B) of this paragraph. Additionally, instead of following the provisions of 10 CFR 430(m)(2)(i) and (ii) for every other system combination using the same outdoor unit as the tested combination, Sanyo shall make representations concerning the ECO-i products covered in this waiver according to the provisions of subparagraph (C) below.

(ii) For products covered by 10 CFR Part 430 (consumer products), Sanyo shall be required to comply with 10 CFR Part 430, Subpart B, Appendix M, as amended by the final rule published in the **Federal Register** on October 22, 2007. 72 FR 59906. The test procedure changes applicable to multi-split products are in sections: 2.1, 2.2.3, 2.4.1, 3.2.4 (including Table 6), 3.6.4 (including Table 12), 4.1.4.2, and 4.2.4.2.

(iii) For products covered by 10 CFR Part 431 (commercial products), Sanyo shall test a “tested combination” selected in accordance with the provisions of subparagraph (B) of this paragraph. For every other system combination using the same outdoor unit as the tested combination, Sanyo shall make representations concerning the ECO-i products covered in this waiver according to the provisions of subparagraph (C) below.

(B) *Tested combination* means a multi-split system with multiple indoor coils having the following features:

(1) The basic model of a system used as a tested combination shall consist of one outdoor unit, with one or more compressors, that is matched with between 2 and 5 indoor units; for multi-split systems, each of these indoor units shall be designed for individual operation.

(2) The indoor units shall—

(i) Represent the highest sales model family, or another indoor model family if the highest sales model family does not provide sufficient capacity (see ii);

(ii) Together, have a nominal capacity that is between 95% and 105% of the nominal capacity of the outdoor unit;

(iii) Not, individually, have a capacity that is greater than 50% of the nominal capacity of the outdoor unit;

(iv) Operate at fan speeds that are consistent with the manufacturer’s specifications; and

(v) All be subject to the same minimum external static pressure requirement while being configurable to produce the same static pressure at the exit of each outlet plenum when manifolded as per section 2.4.1 of 10 CFR Part 430, Subpart B, Appendix M.

(C) *Representations.* In making representations about the energy efficiency of its ECO-i variable refrigerant volume multi-split air conditioner and heat pump products, for compliance, marketing, or other purposes, Sanyo must fairly disclose the results of testing under the DOE test procedure, doing so in a manner consistent with the provisions outlined below:

(i) For ECO-i multi-split combinations tested in accordance with this alternate test procedure, Sanyo must disclose these test results.

(ii) For ECO-i multi-split combinations that are not tested, Sanyo must make a disclosure based on the testing results for the tested combination and which are consistent with either of the two following methods, except that only method (a) may be used, if available:

(a) Representation of non-tested combinations according to an Alternative Rating Method (ARM) approved by DOE; or

(b) Representation of non-tested combinations at the same energy efficiency level as the tested combination with the same outdoor unit.

## V. Summary and Request for Comments

Through today’s notice, DOE announces receipt of Sanyo’s Petition for Waiver from the test procedures

applicable to Sanyo’s ECO-i residential and commercial multi-split air conditioner and heat pump products, and for the reasons articulated above, DOE is granting Sanyo an Interim Waiver from those procedures. As part of this notice, DOE is publishing Sanyo’s Petition for Waiver in its entirety. The petition contains no confidential information. Furthermore, today’s notice includes an alternate test procedure that Sanyo is required to follow as a condition of its Interim Waiver and which DOE is considering including in its subsequent Decision and Order. In this alternate test procedure, DOE is defining a “tested combination” which Sanyo could use in lieu of testing all retail combinations of its ECO-i multi-split air conditioner and heat pump products.

Furthermore, should a subsequent manufacturer be unable to test all retail combinations, DOE is considering allowing such manufacturers to rate waived products according to an ARM approved by DOE, or to rate waived products in the same manner as that for the specified tested combination. DOE has applied a similar alternate test procedure to other comparable Petitions for Waiver for residential and commercial central air conditioners and heat pumps. Such cases include Samsung’s Petition for Waiver for its Digital Variable Multi (DVM) products at 72 FR 71387 (Dec. 17, 2007), and Fujitsu’s Petition for Waiver for its Airstage variable refrigerant flow products at 72 FR 71383 (Dec. 17, 2007).

DOE is interested in receiving comments on the issues addressed in this notice. Pursuant to 10 CFR 430.27(d) and 10 CFR 431.401(d), any person submitting written comments must also send a copy of such comments to the petitioner, whose contact information is included in the **ADDRESSES** section above.

Issued in Washington, DC, on December 20, 2007.

**Alexander A. Karsner,**

*Assistant Secretary, Energy Efficiency and Renewable Energy.*

February 22, 2007

The Honorable Alexander Karsner,  
Assistant Secretary for Energy Efficiency and Renewable Energy,  
U.S. Department of Energy, 1000 Independence Ave., SW.,  
Washington, DC 20585–0121.

Re: Petition for Waiver of Test Procedure and Application for Interim Waiver for ECO-I Air Source Heat Pumps and Heat Recovery Products.

Dear Assistant Secretary Karsner, Sanyo Fisher Company (“SFC”) is most excited with the opportunity to

introduce to the United States HVAC market one of our most successful products marketed throughout much of the world. We refer to this as our ECO-i product line. ECO-i incorporates Variable Refrigerant Flow (VRF) and Multi-Split Zoning characteristics with a highly advanced integrated control system. We utilize variable speed compressor technology to provide high efficiency operation and individual zone control for each indoor unit.

As a result of this product line's unique design and operating characteristics, it is currently not possible to conduct testing as defined by ARI Standard 210/240 or ARI Standard

340/360. Therefore, SFC respectfully submits this Petition for Waiver from Test Procedure and simultaneously an Application for Interim Waiver of Test Procedure for our ECO-i product line in accordance with the requirements set forth in 10 CFR 431.401 (1-1-06 Edition).

**Section 1—Background**

SFC's ECO-i product contains characteristics that prevent testing of the system using the procedures outlined in ARI 210/240 as well as ARI 340/360. Simply stated, testing laboratories cannot test products with so many indoor units connected to a single

outdoor unit. There are also too many possible indoor unit combinations to test them all. As a result of these issues, SFC seeks a waiver from test procedures until such time as a permanent or interim method of testing and rating VRF Multi-Split products is adopted.

The Department of Energy (DOE) has previously granted waivers and/or interim waivers to other manufacturers of equipment that contain the same basic design characteristics as that of SFC's ECO-i product line. Table 1 as shown below provides such detail and verification related to current and previous waiver requests for similar product.

TABLE 1.—WAIVER STATUS

Manufacturer	Petition	Interim	Product
Mitsubishi .....	Granted 8/2004 .....	.....	R-22 Air Source Heat Pump.
Mitsubishi .....	.....	Granted 3/2006 .....	R-410a City Multi Air Source.
Mitsubishi .....	Pending .....	Pending .....	R-410a City Multi Water Source.
Samsung .....	.....	Granted Early 2005 .....	R-22 DVM Air Source.
Fujitsu General .....	.....	Granted Jan 5, 2006 .....	AirStage Air Source.

**Section 2—Basic Model Identification**

ECO-i air source multi-split VRF products are planned for introduction to the United States market during the first

quarter of 2007. As shown below, Table 2 provides a listing of ECO-i outdoor units incorporating inverter driven variable speed compressors. A listing of ECO-i heat pump indoor units

applicable to this Petition for Waiver and Application for Interim Waiver is provided after Table 2 in the section shown as "ECO-i Indoor Model Identification".

TABLE 2.—ECO-I OUTDOOR MODEL IDENTIFICATION

Model No.	Nominal capacity		Type	Phase	Voltage	Connectable indoor units
	Cooling	Heating				
CHX03652 .....	38,200	42,700	Heat Pump .....	1	208-230	6
CHX06052 .....	52,900	60,000	Heat Pump .....	1	208-230	9
CHDX09053 .....	95,500	107,500	Heat Pump .....	3	208-230	16
CHDZ09053 .....	95,500	107,500	Heat Recovery (Simultaneous heating/cooling).	3	208-230	16
CHDX14053 .....	153,600	170,600	Heat Pump .....	3	208-230	28
CHDZ14053 .....	153,600	170,600	Heat Recovery (Simultaneous heating/cooling).	3	208-230	28

*ECO-i Indoor Model Identification*

All indoor units are specifically designed for use with Sanyo's ECO-i Variable Refrigerant Flow outdoor units. Indoor units are available in capacities ranging from 7,500 BTU/hr to 54,600 BTU/hr, with even more capacities to be introduced in the future. All indoor units operate on a 208-230 volt single phase power supply and the proprietary control system of Sanyo. The specific family and capacity range of indoor units is as follows:

- AHX\*\*52 Series; Ceiling Cassette, 1 Way Air Discharge, 7,500/9,600/12,000 BTU/hr nominal capacities.
- DHX\*\*52 Series; Concealed Ducted, Medium External Static, 36,000/47,800 BTU/hr nominal capacities.

- FHX\*\*52 Series; Exposed Floor Standing, 7,500/9,600/12,000/19,000/25,000 BTU/hr nominal capacities.
- FMHX\*\*52 Series; Concealed Floor Standing, 7,500/9,600/12,000/19,000/25,000 BTU/hr nominal capacities.
- KHX\*\*52 Series; Wall Mounted, 7,500/9,600/12,000/19,000/25,000 BTU/hr nominal capacities.
- LHX\*\*52 Series; Ceiling Mount Slim Design 1 Way Air Discharge, 12,000/19,000/25,000 BTU/hr nominal capacities.
- SHX\*\*52 Series; Ceiling Cassette, 2 Way Air Discharge, 7,500/9,600/12,000/19,000/25,000/36,000/47,800 BTU/hr nominal capacities.

- THX\*\*52 Series; Ceiling Suspended, 12,000/19,000/25,000 BTU/hr nominal capacities.
- UHX\*\*52 Series; Concealed Ducted, Low External Static, 7,500/9,600/12,000/19,000/25,000/36,000 BTU/hr nominal capacities.
- UMHX\*\*52 Series; Concealed Slim Ducted, Low External Static, 7,500/9,600/12,000/19,000/25,000 BTU/hr nominal capacities.
- XHX\*\*52 Series; Ceiling Cassette, 4 Way Air Discharge, 12,000/19,000/25,000/36,000 BTU/hr nominal capacities.
- XMHX\*\*52 Series; Mini Ceiling Cassette, 4 Way Air Discharge, 7,500/9,600/12,000/19,000/25,000 BTU/hr nominal capacities.

### Section 3—Design Characteristics Constituting the Grounds for Petition

ECO-i VRF products enable the connection of multiple indoor units to a single outdoor unit. The outdoor unit is capable of part load operation by varying refrigerant flow through the use of inverter driven variable speed compressor technology. This results in the outdoor units operating capacity closely matching the actual indoor load. The ECO-i product line is designed to optimize overall system performance and efficiency when operating at part load which significantly decreases energy usage.

Each indoor unit of the ECO-i system may have an individual remote controller that allows the occupant to adjust their temperature independently of the set temperature of other indoor units connected to the same outdoor unit. Some of the indoor units may be set to the “off” mode which increases energy savings even further when heating or cooling is not required.

The variable speed compressor is capable of reducing its capacity to approximately 7,000 BTU/hr. When this variable speed compressor is coupled with another high performance single speed compressor(s) of similar size in the same outdoor unit a truly remarkable minimum capacity of as little as 7% of the rated system capacity could be achieved resulting in significant energy savings when only a small amount of heating or cooling is required.

Multi-split VRF technology that is incorporated in the ECO-i system allows up to 130% of indoor unit capacity to the rated capacity of the outdoor unit. VRF technology allows this mis-match of indoor to outdoor capacity to save energy while still meeting the HVAC requirements of the building.

ECO-i series “CHDZ” outdoor units go one step further by allowing the consumer to operate both heating and cooling simultaneously. In the simultaneous mode, heat is actually being removed from the “cooling zones” and deposited in the “heating zones” via the system’s heat recovery ability. Although there is no approved or existing DOE, ARI or ASHRAE method to recognize the systems performance during simultaneous operation, it is certainly reasonable to believe that system efficiency is increased. This increase in efficiency occurs because some indoor units within the building are acting as condensers while other indoor units are acting as evaporators at the same time. This means that heat is transferred within the building rather

than being wasted to the outdoor environment.

Multi-split VRF technology will help our nation to reduce the amount of energy needed to heat and cool our buildings. Sanyo is pleased to introduce this technology to not only improve the control that the end user has over their environment but also to help with our nation’s desire to reduce overall energy usage.

### Section 4—Specific Requirements Sought to be Waived

Sanyo Petitions Waiver from the Test Procedures for all ECO-i Series outdoor units along with their matching indoor units. Due to the wide capacity ratings available for the ECO-i outdoor units, a waiver is sought from the testing procedures outlined in ARI 210/240 and ARI 340/360 as identified below:

- For Sanyo outdoor units with model numbers of CHX03652 and CHX06052 (and all listed indoor units) we seek Waiver from Test Procedures as outlined in ARI Standard 210/240–2006 (Performance Rating of Unitary Air Conditioning and Air Source Heat Pump Equipment). This rating and testing standard applies to unitary air conditioners and unitary air source heat pumps rated with capacities below 65,000 BTU/hr.

- For Sanyo outdoor units with model numbers of CHDX09053, CHDZ09053, CHDX14053 and CHDZ14053 we seek Waiver from Test Procedures as outlined in ARI Standard 340/360–2004 (Performance Rating of Commercial and Industrial Unitary Air Conditioning and Heat Pump Equipment). This rating and testing standard applies to unitary air conditioners and heat pumps with capacities ranging from 65,000 to 250,000 BTU/hr.

Regardless of the capacity of ECO-i products the basic performance, application and utility of the equipment remain virtually identical in that they all utilize VRF multi-split technology. All ECO-i products utilize the same indoor units, the same piping and wiring configurations and the same control systems regardless of capacity. The above referenced testing and rating standards do not address the details required to select or configure multi-split systems in a testing facility.

SFC takes this opportunity to also request an Interim Waiver from Test Procedure for all referenced products.

### Section 5—Identity of Manufacturers of Similar Basic Models

To the best of our knowledge the following manufacturers either currently market or previously

marketed, similar VRF products within the United States.

- Daikin U.S. Corporation
- Fujitsu General America
- LG Electronics U.S.A., Inc.
- Mitsubishi Electric & Electronics USA, Inc.
- Samsung Electronics Company, Ltd.

### Section 6—Alternate Testing Procedures

There is no alternative testing and rating procedures for VRF multi-split products that SFC is aware of which could adequately represent the performance or efficiency of this product. Our company is an active member of the ARI Ductless Section Engineering Committee. This committee is developing a proposed testing and rating standard for VRF multi-split products (ARI Standard 1230) with a goal to eliminate the need for existing and future waivers for such product.

### Section 7—Need for Waiver from Test Procedure

In previous waiver petitions DOE noted that VRF multi-split systems incorporate design characteristics that virtually eliminate the possibility of broad testing of this type of technology. An example of this is provided in **Federal Register**/Vol. 69, No. 166/ Friday, August 27, 2004/Notices, page 52662 which contain the following statements:

“However, the two testing problems discussed above, (test laboratories cannot test products with so many indoor units, and there are too many possible combinations of indoor and outdoor units to test), do prevent testing of the basic model according to the prescribed test procedures.”

“The Department also consulted with the National Institute of Standards & Technology (NIST), who agreed that many VFRZ systems could not be tested in the laboratory.”

SFC’s ECO-i product offering is a multi-split system incorporating such a diverse amount and configuration of possible indoor units that are able to be connected to a single outdoor unit that it is virtually impossible to test the performance of this system. Compounding the difficulty of testing is the fact that the indoor units are designed to operate at so many different external static pressure values. A testing facility could not manage proper airflow at several different external state pressure values to the many indoor units that would be connected to an ECO-i outdoor unit.

The challenges associated with current test procedures (of ARI 210/240 and ARI 340/360) are being addressed by the ARI Ductless Section Engineering Committee in hopes of overcoming such

difficulties while still providing a means to compare the performance of the various VRF manufacturers.

### Section 8—Application for Interim Waiver

In accordance with 10 CFR 431.401 (a)(2) SFC takes this opportunity to also submit an Application for Interim Waiver of test procedures for our ECO-i models listed in Section 2 of this document and there matching indoor units. SFC believes that it is likely that our Petition for Waiver will be granted based upon, but not limited to, the following:

- The approvals of similar waiver requests as identified in Table 1 of Section 1 of this document.
- Failure to approve our Petition for Waiver and Application for Interim Waiver will result in significant economic hardship due to the following:
  - It is our intention to introduce our ECO-i product in the Spring of 2007. A great deal of company emphasis has been, and will be, placed on the introduction of this product, including show exhibitions (such as AHR, ACCA, etc.), marketing/advertising campaign, customer training and other expenditures of both financial and human resources. Delaying our entry into the U.S. market with the ECO-i product will impede our ability to compete in this growing market.
  - A significant portion of our projected sales revenues are dependent upon the timely introduction of this product.
- DOE's statement:

“\* \* \* an interim waiver will be granted if it is determined that the applicant will experience economic hardship if the Application for Interim Waiver is denied, if it appears likely that the Petition for Waiver will be granted, and/or the Assistance Secretary determines that it would be desirable for public policy reasons to grant immediate relief pending a determination for the Petition for Waiver” (Case CAC-009, 70 Fed Reg 9629, at 9630 (Feb 28, 2005 Samsung Interim Waiver). See 10 CFR 431.201(e)(3)(2005).

- SFC's ECO-i product line is quite similar to that of Fujitsu's VRF system, Mitsubishi's City Multi system and Samsung's DVM system. Realizing these similarities, DOE granted an:

- Interim waiver to Fujitsu in January 2006 for their AirStage Air Source product.
- Interim waiver to Samsung Air Conditioning in 2005 for their DVM System.
- Interim waiver to Mitsubishi for their R-410a City Multi air source product in March 2006.

- Petition for Waiver to Mitsubishi for their R-22 City Multi air source product in 2004.

- The approval of this waiver and interim waiver is in the best interest of our public/and government initiatives to reduce national energy usage.

It is therefore reasonable for one to believe that SFC's petition will also be granted.

### Section 9—Conclusion

It is clear that without the approval of this Petition for Waiver and Application for Interim Waiver that SFC will result in our inability to compete in the United States VRF market, a market in which our company has proven success in many other countries throughout the world. We are pleased to have an opportunity to bring this leading edge technology to the United States market, to not only improve the comfort of Americans, but also to reduce the amount of energy consumed on building cooling and heating.

SFC respectfully requests the Department of Energy to grant our Application for Interim Waiver and our Petition for Waiver from Test Procedure to enable our introduction of our advanced ECO-i products to the U.S. market. Granting these requested waivers will permit us to effectively compete in the marketplace.

Due to our near term introduction of our ECO-i product offering we would greatly appreciate a timely response to this Petition for Waiver from Test Procedure and Application for Interim Waiver.

Should you or any parties have questions related to this Petition for Waiver from Test Procedure and Application for Interim Waiver, please contact Gary Nettinger at 678-384-3115 or Davis Watkins at 678-384-3112.

Sincerely,  
Davis Watkins, Vice President; Applied Products Group, Sanyo Fisher Company, 1690 Roberts Blvd., NW., Suite 110, Kennesaw, GA 30144.

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## ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2002-0262; FRL-8347-2]

### Endosulfan Updated Risk Assessments; Notice of Availability, and Solicitation of Usage Information; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

**ACTION:** Notice; extension of comment period.

**SUMMARY:** EPA issued a notice in the **Federal Register** of November 16, 2007 concerning the availability of EPA's updated human health and ecological effects risk assessments for the organochlorine pesticide endosulfan, based in part on data recently submitted by endosulfan registrants as required in the 2002 Reregistration Eligibility Decision (RED). The Agency is seeking comment on these updated assessments, as well as EPA's analysis of endosulfan usage information since the 2002 RED and its preliminary determinations regarding endosulfan's importance to growers and availability of alternatives. This document is extending the comment period from January 16, 2008, to February 19, 2008.

**DATES:** Comments, identified by docket identification (ID) number EPA-HQ-OPP-2002-0262 must be received on or before February 19, 2008.

**ADDRESSES:** Follow the detailed instructions as provided under **ADDRESSES** in the **Federal Register** document of November 16, 2007.

**FOR FURTHER INFORMATION CONTACT:** Tracy L. Perry, Special Review and Reregistration Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 308-0128; e-mail address: [perry.tracy@epa.gov](mailto:perry.tracy@epa.gov).

### SUPPLEMENTARY INFORMATION:

#### I. General Information

##### A. Does this Action Apply to Me?

The Agency included in the notice a list of those who may be potentially affected by this action. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

##### B. What Should I Consider as I Prepare My Comments for EPA?

When preparing comments follow the procedures and suggestions given in Unit I.B. of the **SUPPLEMENTARY INFORMATION** of the November 16, 2007 **Federal Register** document.

##### C. How and to Whom Do I Submit Comments?

To submit comments, or access the public docket, please follow the detailed instructions as provided in Unit I.B. of the **SUPPLEMENTARY INFORMATION** of the November 16, 2007 **Federal Register** document. If you have questions,