

secret in the interest of national defense and are, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of this meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

Individuals or interested groups interested may submit written statements for consideration by the Chief of Naval Operations Executive Panel at any time or in response to the agenda of a scheduled meeting. All requests must be submitted to the Designated Federal Officer at the address detailed below.

If the written statement is in response to the agenda mentioned in this meeting notice then the statement, if it is to be considered by the Panel for this meeting, must be received at least five days prior to the meeting in question.

The Designated Federal Officer will review all timely submissions with the Chief of Naval Operations Executive Panel Chairperson, and ensure they are provided to members of the Chief of Naval Operations Executive Panel before the meeting that is the subject of this notice.

To contact the Designated Federal Officer, write to Executive Director, CNO Executive Panel (N00K), 4825 Mark Center Drive, 2nd Floor, Alexandria, VA 22311-1846.

Dated: January 2, 2008.

T.M. Cruz,

Lieutenant, Office of the Judge Advocate General, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. E8-25 Filed 1-4-08; 8:45 am]

BILLING CODE 3810-FF-P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

[Case No. CAC-019]

Energy Conservation Program for Commercial Equipment: Publication of the Petition for Waiver From Daikin AC (Americas), Inc. and Granting of the Application for Interim Waiver From the Department of Energy Commercial Package Air Conditioner and Heat Pump Test Procedure

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 Daikin AC (Americas), Inc. (Daikin). The Petition for Waiver (hereafter "Daikin Petition") requests a waiver of the Department of Energy (DOE) test procedure applicable to commercial package air-cooled central air conditioners and heat pumps. The waiver request is specific to the Daikin variable speed and variable refrigerant volume (VRV-III) (commercial) multi-split heat pumps and heat recovery systems. Through this document, DOE is: (1) Soliciting comments, data, and information with respect to the Daikin Petition; and (2) announcing our determination to grant an Interim Waiver to Daikin from the applicable DOE test procedure for the subject commercial air-cooled, multi-split air conditioners and heat pumps.

DATES: DOE will accept comments, data, and information with respect to the Daikin Petition until, but no later than February 6, 2008.

ADDRESSES: You may submit comments, identified by case number "CAC-018," 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. Include either the case number [CAC-019], and/or "Daikin Petition" in the subject line of the message.

- *Mail:* Ms. Brenda Edwards-Jones, U.S. Department of Energy, Building Technologies Program, Mailstop EE-2J/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., Suite 600, Washington, DC 20024. 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 431.401(d). The contact information for the petitioner is: Mr. Russell Tavolacci, Director of Product Marketing, Daikin AC (Americas), Inc., 1645 Wallace Drive, Suite 110, Carrollton, TX 75006. Telephone: (972) 245-1510. E-mail: Russell.Tavolacci@daikinac.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 background documents relevant to this matter, you may visit the U.S. Department of Energy, 950 L'Enfant Plaza, SW., (Resource Room of the Building Technologies Program), Washington, DC 20024; (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 similar central air conditioning and heat pump equipment. Please call Ms. Brenda Edwards-Jones at the above telephone number for additional information regarding visiting the Resource Room.

FOR FURTHER INFORMATION CONTACT: Dr. Michael G. Raymond, U.S. Department of Energy, Building Technologies Program, Mail Stop EE-2J, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585-0121. Telephone: (202) 586-9611. E-mail: 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 or 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 provides for the "Energy Conservation Program for Consumer Products Other Than Automobiles." (42 U.S.C. 6291–6309) Part C of Title III provides for an energy efficiency program entitled "Certain Industrial Equipment," which is similar to the program in Part B, and which includes commercial air conditioning and heating equipment, packaged boilers, water heaters, and other types of commercial equipment. (42 U.S.C. 6311–6317)

This notice involves commercial equipment under Part C. Part C specifically includes definitions (42 U.S.C. 6311), test procedures (42 U.S.C. 6314), labeling provisions (42 U.S.C. 6315), energy conservation standards (42 U.S.C. 6313), and the authority to require information and reports from manufacturers (42 U.S.C. 6316). With respect to test procedures, it generally authorizes 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. 6314(a)(2))

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 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 adopting test procedures for commercial package air-conditioning and heating equipment, effective January 8, 2007. 71 FR 71340. DOE adopted ARI Standard 340/360–2004, "Performance Rating of Commercial and Industrial Unitary Air-Conditioning and Heat Pump Equipment," for small and large commercial package air-cooled heat pumps with capacities $\geq 65,000$

Btu/h and $< 760,000$ British thermal units per hour (Btu/h). *Id.* at 71370. Pursuant to this rulemaking, DOE's regulations at 10 CFR 431.95(b)(2) incorporate by reference the relevant ARI Standard, and Table 1 to 10 CFR 431.96 directs manufacturers of commercial package air-cooled air conditioning and heating equipment to use the appropriate procedure when measuring energy efficiency of those products. (The cooling capacities of Daikin's commercial VRV–III multi-split heat pump products range from 72,000 Btu/hr to 240,000 Btu/hr, thereby resulting in these products falling within the range covered by ARI Standard 340/360–2004.)

In addition, DOE's regulations contain provisions allowing a person to seek a waiver from the test procedure requirements for covered commercial equipment, for which the petitioner's basic model contains one or more design characteristics which prevent testing according to the prescribed test procedures, or if the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption as to provide materially inaccurate comparative data. 10 CFR 431.401(a)(1). The waiver provisions for commercial equipment are found at 10 CFR 431.401 and are substantively identical to those for covered consumer products. 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 431.401(b)(1)(iii). The Assistant Secretary for Energy Efficiency and Renewable Energy (Assistant Secretary) may grant a waiver subject to conditions, including adherence to alternate test procedures. 10 CFR 431.401(f)(4). In general, a waiver terminates on the effective date of a final rule, published in the **Federal Register**, 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 431.401(g).

The waiver process also allows any person who has submitted a Petition for Waiver to file an Application for Interim Waiver of the applicable test procedure requirements. 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 Application for 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 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 occurs first, and it may be extended by DOE for an additional 180 days, if necessary. 10 CFR 431.401(e)(4).

II. Petition for Waiver

On August 31, 2007, Daikin filed a Petition for Waiver from the test procedures at 10 CFR 431.96 which are applicable to commercial package air-cooled heat pumps and an Application for Interim Waiver. As noted above, the applicable test procedure for Daikin's commercial VRV–III multi-split heat pumps is ARI Standard 340/360–2004, which manufacturers are directed to use pursuant to Table 1 of 10 CFR 431.96. The capacities of the Daikin VRV–III multi-split heat pumps range from 72,000 Btu/hr to 240,000 Btu/hr. Accordingly, the applicable test procedure for all these sizes is ARI Standard 340/360–2004.¹

Daikin seeks a waiver from the applicable test procedures under 10 CFR 431.96 on the grounds that its VRV–III multi-split heat pumps and heat recovery systems contain design characteristics that prevent testing according to the current DOE test procedures. Specifically, Daikin 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 waivers that DOE granted to Mitsubishi Electric & Electronics USA, Inc. (Mitsubishi) for a similar line of commercial multi-split air-conditioning systems:

- 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 52661 (August 27, 2004); 72 FR 17528 (April 9, 2007); 72 FR 71383 (December 17, 2007); 72 FR 71387 (December 17, 2007).

Further, Daikin states that its VRV–III indoor units have nine different indoor static pressure ratings, and the test procedure does not provide for operation of indoor units at several different static pressure ratings during a single test. The indoor units are designed to operate at many different

¹ Daikin's Petition mistakenly requested a waiver from ARI 210/240–2006. The capacities of the products for which the waiver is requested are not in the range covered by ARI 210/240. ARI 340/360–2004 is the test procedure relevant to the Daikin Petition.

external static pressure values, which compounds the difficulty of testing. The number of connectable indoor units for each outdoor unit ranges up to 64. A testing facility could not manage proper airflow at several different external static pressure values to the many indoor units that would be connected to a VRV-III outdoor unit. Daikin further states that its VRV-III products' capability to perform simultaneous heating and cooling is not captured by the DOE test procedure. This is true, but not relevant. DOE is required by EPCA to use the full-load descriptor EER for these products, and simultaneous heating and cooling does not occur when operating at full load.

Accordingly, Daikin requests that DOE grant a waiver from the applicable test procedures for its VRV-III product designs, until a suitable test method can be prescribed. DOE believes that there is no substantive difference between the Mitsubishi and Daikin equipment which would preclude it from granting the same waiver to both. Furthermore, Daikin states that failure to grant the waiver would result in economic hardship because it would prevent the company from marketing its VRV-III products. Also, Daikin states that it is willing to work closely with DOE, ARI, and other agencies to develop appropriate test procedures, as necessary.

III. Application for Interim Waiver

On August 31, 2007, in addition to its Petition for Waiver, Daikin submitted to DOE an Application for Interim Waiver. Daikin's Application for Interim Waiver does not provide sufficient information to evaluate the level of economic hardship Daikin 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 similar product designs, 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 Mitsubishi, Fujitsu, and Samsung for comparable commercial multi-split air conditioners and heat pumps. 72 FR 17533 (April 9, 2007), 70 FR 5980 (Feb. 4, 2005), 70 FR 9629 (Feb. 28, 2005), respectively.

Moreover, as noted above, DOE approved the Petition for Waiver from Mitsubishi, Fujitsu, and Samsung for their comparable lines of multi-split air conditioners and heat pumps. 72 FR 17528 (April 9, 2007); 72 FR 71383 (Dec. 17, 2007); 72 FR 71387 (Dec. 17, 2007). The two principal reasons for granting

the waivers also apply to Daikin's VRV-III products: (1) Test laboratories cannot test products with so many indoor units²; 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 Daikin's Petition for Waiver will be granted for its new VRV-III multi-split models.

Therefore, it is ordered that:

The Application for Interim Waiver filed by Daikin is hereby granted for Daikin's VRV-III air-cooled multi-split central air conditioning heat pumps, subject to the specifications and conditions below. The Interim Waiver applies to the following models:

1. Daikin shall not be required to test or rate its VRV-III commercial air-cooled multi-split products on the basis of the currently applicable test procedure under 10 CFR 431.96, which incorporates by reference ARI Standard 340/360-2004.

2. Daikin shall be required to test and rate its VRV-III commercial air-cooled multi-split products according to the alternate test procedure as set forth in section IV(3), "Alternate test procedure."

VRV-III Series Outdoor Units:

460V/3-phase/60Hz Models:

○ Heat Pump models RXYQ72PYDN, RXYQ96PYDN, RXYQ120PYDN, RXYQ144PYDN, RXYQ168PYDN, RXYQ192PYDN, RXYQ216PYDN, RXYQ240PYDN with nominally rated cooling capacities of 72,000, 96,000, 120,000, 144,000, 168,000, 192,000, 216,000, and 240,000, respectively.

○ Heat Recovery models REYQ72PYDN, REYQ96PYDN, REYQ120PYDN, REYQ144PYDN (2x REMQ72PYDN), REYQ168PYDN (1x REMQ96PYDN + 1x REMQ72PYDN), REYQ192PYDN (1x REMQ120PYDN + 1x REMQ72PYDN), REYQ216PYDN (1x REMQ120PYDN + 1x REMQ96PYDN), REYQ240PYDN (2x REMQ120PYDN) with nominally rated cooling capacities of 72,000, 96,000, 120,000, 144,000, 168,000, 192,000, 216,000, and 240,000 respectively.

208-230V/3-phase/60Hz Models:

○ Heat Pump models RXYQ72PTJU, RXYQ96PTJU, RXYQ120PTJU, RXYQ144PTJU, RXYQ168PTJU, RXYQ192PTJU, RXYQ216PTJU, RXYQ240PTJU with nominally rated cooling capacities of 72,000, 96,000, 120,000, 144,000, 168,000, 192,000, 216,000, and 240,000 respectively.

² According to the Daikin petition, up to 64 indoor units are possible candidates for testing of its commercial package multi-split heat pump and heat recovery systems. However, DOE believes that the practical limits for testing would be about five units.

○ Heat Recovery models REYQ72PTJU, REYQ96PTJU, REYQ120PTJU, REYQ144PTJU, REYQ168PTJU (1x REMQ96PTJU + 1x REMQ72PTJU), REYQ192PTJU (1x REMQ120PTJU + 1x REMQ72PTJU), REYQ216PTJU (1x REMQ120PTJU + 1x REMQ96PTJU), REYQ240PTJU (2x REMQ120PTJU) with nominally rated cooling capacities of 72,000, 96,000, 120,000, 144,000, 168,000, 192,000, 216,000, and 240,000 respectively.

Compatible Indoor Units for Above-Listed Outdoor Units:

○ FXAQ Series all mounted indoor units with nominally rated capacities of 7,500, 9,500, 12,000, 18,000 and 24,000 BTU/Hr.

○ FXLQ Series floor mounted indoor units with nominally rated capacities of 7,500, 9,500, 12,000, 18,000 and 24,000 BTU/Hr.

○ FXNQ Series concealed floor mounted indoor units with nominally rated capacities of 7,500, 9,500, 12,000, 18,000 and 24,000 BTU/Hr.

○ FXDQ Series low static ducted indoor units with nominally rated capacities of 7,500, 9,500, 12,000, 18,000 and 24,000 BTU/Hr.

○ FXSQ Series medium static ducted indoor units with nominally rated capacities of 7,500, 9,500, 12,000, 18,000, 24,000, 30,000, 36,000, 48,000, 72,000 and 96,000 BTU/Hr.

○ FXMQ Series high static ducted indoor units with nominally rated capacities of 18,000, 24,000, 30,000, 36,000, 48,000, 72,000 and 96,000 BTU/Hr.

○ FXZQ Series recessed cassette indoor units with nominally rated capacities of 7,500, 9,500, 12,000, 15,000 and 18,000 BTU/Hr.

○ FXFQ Series recessed cassette indoor units with nominally rated capacities of 12,000, 18,000, 24,000, 30,000 and 36,000 BTU/Hr.

○ FXHQ Series ceiling suspended indoor units with nominally rated capacities of 12,000, 24,000 and 36,000 BTU/Hr.

○ FXOQ Series ceiling suspended indoor units with nominally rated capacities of 12,000, 18,000, 24,000, 30,000, 36,000, 42,000 and 48,000 BTU/Hr.

○ FXMQ-MF Series concealed ducted indoor units with nominally rated capacities of 48,000, 72,000, and 96,000 BTU/Hr.

This Interim Waiver is conditioned upon the presumed validity of statements, representations, and documents 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. Alternate test procedures related to the Mitsubishi petitions were published in the **Federal Register** on April 9, 2007. 72 FR 17528; 72 FR 17533.

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. The ARI committee has considered a draft ISO methodology, ISO CD 15042, for multi-split systems. However, it contains no guidance that would affect this waiver.

Therefore, as discussed below, DOE is including a similar alternate test procedure as a condition in granting the Interim Waiver for Daikin's products, and plans to consider the same alternate test procedure in the context of the subsequent Decision and Order pertaining to Daikin's Petition for Waiver. Utilization of this alternate test procedure will allow Daikin to test and make energy efficiency representations for its VRV-III products. More broadly, DOE is also considering applying 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 Petition for Waiver for its multi-split products at 72 FR 71387 (Dec. 17, 2007), and Fujitsu's Petition for Waiver 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 and R410A 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 and heat pump products.

In the present case, DOE is modifying the alternate test procedure taken from the above-referenced waiver granted to Mitsubishi for its R410A and R22 CITY MULTI products, and plans to consider inclusion of the following similar waiver language in the Decision and Order for Daikin's VRV-III commercial multi-split air-cooled heat pump models:

(1) The "Petition for Waiver" filed by Daikin AC (Americas), Inc. is hereby granted as set forth in the paragraphs below.

(2) Daikin shall not be required to test or rate its VRV-III variable refrigerant volume multi-split heat pump products listed above in section III, on the basis of the currently applicable 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) Daikin 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 431.96, except that Daikin 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, Daikin shall make representations concerning the VRV-III 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 VRV-III variable speed and variable refrigerant volume air-cooled multi-split heat pump and heat recovery system products, for compliance, marketing, or other purposes, Daikin 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 VRV-III combinations tested in accordance with this alternate test procedure, Daikin must disclose these test results.

(ii) For VRV-III combinations that are not tested, Daikin must make a disclosure based on the testing results for the tested combination and which is 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 the Daikin Petition for Waiver from the test procedures applicable to Daikin's VRV-III commercial multi-split heat pump products, and for the reasons articulated above, DOE is granting Daikin an Interim Waiver from those procedures. As part of this notice, DOE is publishing Daikin's Petition for Waiver in its entirety. The Petition contains no confidential information. Furthermore, today's notice includes an alternate test procedure that Daikin is required to follow as a condition of its Interim Waiver and that DOE is considering including in its subsequent Decision and Order. In this alternate test procedure, DOE is defining a "tested combination" which Daikin could use in lieu of testing all retail combinations of its VRV-III multi-split 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 the same as the specified tested combination with the same outdoor unit. DOE is also considering applying 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 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 section entitled **ADDRESSES** section above.

Issued in Washington, DC, on December 27, 2007.

Alexander A. Karsner,

Assistant Secretary, Energy Efficiency and Renewable Energy.

August 31, 2007.

Mr. 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

Dear Assistant Secretary Karsner: Daikin AC (Americas) Inc. (DACA) respectfully petitions the Department of Energy (DOE) pursuant to 10 CFR. §§ 430.27(a)(1) and 431.401(a)(1) for waivers of the test procedures applicable to residential and commercial package air conditioners and heat pumps, as established in ARI Standard 210/240-2006 and ARI Standard 340/360-2004,¹ for DACA's variable speed compressor driven air-cooled multi-split systems for combinations exceeding two indoor units to a single outdoor unit. The specific systems for which DACA requests these waivers are in DACA's VRV-III product classes. The specific models subject to the waiver requests are listed below. The basis for DACA's requests is that the basic model contains design criteria that prevent testing of the basic models according to the prescribed test procedures. We are simultaneously requesting an interim waiver for the same systems pursuant to 10 CFR §§ 430.27(a)(2) and 431.401(a)(2).

Particular Basic Models for Which a Waiver Is Requested

DACA requests a waiver from the test procedures for the following particular basic models:

¹Detailed citations to the test procedures for which DACA is requesting a waiver are included on page 4 of this petition.

VRV-III

- VRV III Series Outdoor Units:

460V/3-phase/60Hz Models:

Heat Pump models RXYQ72PYDN, RXYQ96PYDN, RXYQ120PYDN, RXYQ144PYDN, RXYQ168PYDN, RXYQ192PYDN, RXYQ216PYDN, RXYQ240PYDN with nominally rated cooling capacities of 72,000, 96,000, 120,000, 144,000, 168,000, 192,000, 216,000, and 240,000, respectively.

Heat Recovery models REYQ72PYDN, REYQ96PYDN, REYQ120PYDN, REYQ144PYDN (2x REMQ72PYDN), REYQ168PYDN (1x REMQ96PYDN + 1x REMQ72PYDN), REYQ192PYDN (1x REMQ120PYDN + 1x REMQ72PYDN), REYQ216PYDN (1x REMQ120PYDN + 1x REMQ96PYDN), REYQ240PYDN (2x REMQ120PYDN) with nominally rated cooling capacities of 72,000, 96,000, 120,000, 144,000, 168,000, 192,000, 216,000, and 240,000, respectively.

208-230V/3-phase/60Hz Models:

Heat Pump models RXYQ72PTJU, RXYQ96PTJU, RXYQ120PTJU, RXYQ144PTJU, RXYQ168PTJU, RXYQ192PTJU, RXYQ216PTJU, RXYQ240PTJU with nominally rated cooling capacities of 72,000, 96,000, 120,000, 144,000, 168,000, 192,000, 216,000, and 240,000, respectively.

Heat Recovery models REYQ72PTJU, REYQ96PTJU, REYQ120PTJU, REYQ144PTJU, REYQ168PTJU (1x REMQ96PTJU + 1x REMQ72PTJU), REYQ192PTJU (1x REMQ120PTJU + 1x REMQ72PTJU), REYQ216PTJU (1x REMQ120PTJU + 1x REMQ96PTJU), REYQ240PTJU (2x REMQ120PTJU) with nominally rated cooling capacities of 72,000, 96,000, 120,000, 144,000, 168,000, 192,000, 216,000, and 240,000, respectively.

- Compatible Indoor Units for Above Listed Outdoor Units:

FXAQ Series all mounted indoor units with nominally rated capacities of 7,500, 9,500, 12,000, 18,000 and 24,000 BTU/Hr.

FXLQ Series floor mounted indoor units with nominally rated capacities of 7,500, 9,500, 12,000, 18,000 and 24,000 BTU/Hr.

FXNQ Series concealed floor mounted indoor units with nominally rated capacities of 7,500, 9,500, 12,000, 18,000 and 24,000 BTU/Hr.

FXDQ Series low static ducted indoor units with nominally rated capacities of 7,500, 9,500, 12,000, 18,000 and 24,000 BTU/Hr.

FXSQ Series medium static ducted indoor units with nominally rated capacities of 7,500, 9,500, 12,000, 18,000, 24,000, 30,000, 36,000, 48,000, 72,000 and 96,000 BTU/Hr.

FXMQ Series high static ducted indoor units with nominally rated capacities of 18,000, 24,000, 30,000, 36,000 48,000, 72,000 and 96,000 BTU/Hr.

FXZQ Series recessed cassette indoor units with nominally rated capacities of 7,500, 9,500, 12,000, 15,000 and 18,000 BTU/Hr.

FXFQ Series recessed cassette indoor units with nominally rated capacities of 12,000, 18,000, 24,000, 30,000 and 36,000 BTU/Hr.

FXHQ Series ceiling suspended indoor units with nominally rated capacities of 12,000, 24,000 and 36,000 BTU/Hr.

FXOQ Series ceiling suspended indoor units with nominally rated capacities of 12,000, 18,000, 24,000, 30,000, 36,000, 42,000 and 48,000 BTU/Hr.

FXMQ-MF Series concealed ducted indoor units with nominally rated capacities of 48,000, 72,000, and 96,000 BTU/Hr.

The indoor units listed above are also compatible with Daikin's VRV, VRV-S and VRV-WII product lines covered in separate waiver applications.

Design Characteristics Constituting the Grounds for DACA's Petition

DACA's VRV-III product offerings consist of multiple indoor units being connected to one or more air-cooled outdoor units. The indoor units for these products are available in a very large number of potential configurations, including but not limited to the following: 4-Way Cassette, Ceiling Concealed, Wall Mounted, Ceiling Suspended, and Floor Standing. Each of these units has nine different indoor static pressure ratings as standard, with addition pressure ratings available. There are over one million combinations possible with the DACA VRV-III product offerings. It is completely impractical for testing laboratories to test a product such as the VRV-III with multiple indoor units because of the astronomical number of potential system configurations.

DACA's VRV-III products share many of the design characteristics and features of similar equipment for which DOE has already approved either interim waivers or waivers, including DACA's VRV and VRV-S product lines, and Mitsubishi Electric and Electronics USA, Inc.'s (MEUS) CITY MULTI product class.³ The same testing constraints and limitations apply to all of these products.

The DOE relied on similar rationales to grant MEUS' petition for waiver and DACA's interim waiver. DOE stated the following in its August 14, 2006 letter to DACA granting an interim waiver:

A waiver for a similar type of variable refrigerant flow zoned central air conditioner [i.e., similar to the DACA VRV, VRV-S and VRV-III products] was requested by MEUS. DOE decided to grant the waiver, based on the difficulty of testing the products. There are two major testing problems: (1) test laboratories cannot test products with so many indoor units (up to sixteen); and (2) there are too many possible combinations of indoor and outdoor units—only a small fraction of the combinations could be tested.

DOE also noted in its August 14, 2006 interim waiver approval, and in its July 2, 2007 renewal for DACA's VRV and VRV-S products that "[w]aivers for similar products have already been granted to * * * Samsung, and Fujitsu General * * *"

After reviewing its previously granted waivers for similar products under the same rationale in its August 14, 2006 letter, DOE concluded that DACA's VRV and VRV-S systems "will likely suffer the same testing

³DOE granted DACA an interim waiver for its VRV and VRV-S product lines in a letter dated August 14, 2006, and DOE renewed this interim waiver on July 2, 2007 (72 FR 35,986). DOE granted MEUS a waiver for its CITY MULTI VRFZ class of products. 69 FR 52,660 (August 27, 2004).

problems that prompted DOE to grant MEUS a waiver." DOE continued by saying that "[w]ith up to eleven indoor units of nine different types, thousands of combinations are possible, and it would not be practicable to test so many combinations [of DACA's VRV and VRV-S product class]." Based on these conclusions, the DOE proceeded to grant DACA's interim waiver request, Id., and DOE then renewed this interim waiver on the same basis. 72 FR 35,986 (July 2, 2007).

The DACA VRV-III system operates in the same configurations as the VRV and VRV-S models for which DOE previously granted an interim waiver. The reasons and rationale that DOE has already articulated to support the previous DACA, MEUS, Sanyo, and Fujitsu waivers for multi-split, multi-zoned air conditioners also apply to the DACA VRV-III products. Therefore, DOE should conclude that the design characteristics of DACA's VRV-III product classes prevent testing of these basic models according to the prescribed test procedures.

Specific Testing Requirements Sought To Be Waived

The test procedures from which DACA is requesting a waiver are ARI Standards 210/240-2006 and 340/360-2004. ARI Standard 210/240-2006, which is applicable to small commercial packaged air conditioning and heating equipment with a capacity of <65,000 Btu/hr, is referenced in Table 1 to 10 CFR § 431.96, and is made applicable to DACA's small commercial VRV-III products in 10 CFR § 431.96(a). ARI Standard 340/360-2004, which is applicable to large commercial and industrial unitary air conditioning and heat pump equipment with a capacity of ≥65,000 Btu/hr to <240,000 Btu/hr, is referenced in Table 2 to 10 CFR § 431.96, and is made applicable to DACA's large commercial VRV-III products in 10 CFR § 431.96(a).

Detailed Discussion of Need for Requested Waiver

Although the capacity of DACA's VRV-III small and large commercial air conditioning product class are within the scope of ARI Standard 210/240-2006 and ARI 340/360-2004, the design characteristics of these product classes prevent testing of the basic model according to the prescribed test procedures. The testing procedures outlined in these two ARI standards do not provide for:

- The testing of multi-split products when all connected indoor units physically cannot be located in a single room.
- The operation of indoor units at several different static pressure ratings during a single test.
- The precise number of part load tests that ARI Standard 340/360-2004 requires for fully or infinitely variable speed products.

DACA especially requires the requested waiver because ARI Standard 210/240-2006 and ARI Standard 340/360-2004 provide no direction or guidance about how to test systems with millions of combinations of indoor units configurable to a single outdoor unit.

A further reason that DACA needs the requested waiver is that ARI Standard 210/240-2006 and ARI Standard 340/360-2004

do not provide a test method to measure part load performance of a system operating in simultaneous cooling and heating modes (i.e., performing both heating and cooling functions at the same time).

Another problem that prevents testing of the VRV-III product classes under these ARI standards, and another major reason why DACA requires the requested waiver, is the wide variety of indoor unit static pressure ratings available with these and other multi-split products. Testing facilities cannot effectively control multiple indoor static pressures as would be required to test many of the indoor unit combinations available. To accomplish such testing, a testing lab would be required to use a large number of test rooms simultaneously, and each test room would have to be networked into the data recording instrumentation. Also, extensive piping configurations would need to be routed throughout the various test rooms. This process would be extraordinarily expensive, and the logistical challenges presented by the testing might be insurmountable.

Manufacturers of Other Basic Models Incorporating Similar Design Characteristics

DACA is aware of the following manufacturers that produce basic models incorporating similar design characteristics to the VRV-III in the United States market:

- Fujitsu General
- Sanyo Fisher (USA) Corp.
- Mitsubishi Electric & Electronics USA, Inc.

Alternative Test Procedures

There are no alternative test procedures available within the United States to provide a means to test and to rate the performance of such variable speed, multi-split, multi-zone product types. A draft ISO standard (ISO CD 15042 Multi-Split Systems) is nearing completion and is expected to soon be distributed as a Draft International Ballot for comments. The Engineering Committee of ARI's Ductless Section is currently working on a new draft standard to provide testing and rating of such systems, but ARI has not adopted a new standard and test method for this category of equipment as of this date.

Application for Interim Waiver

DACA also hereby applies pursuant to 10 CFR § 431.401(a)(2) for an interim waiver of the applicable test procedure requirements for its VRV-III product class models listed above. The basis for DACA's Application for Interim Waiver follows.

DACA is likely to succeed in its Petition for Waiver because there is no reasonable argument that ARI Standards 210/240-2006 and 340/360-2004 can be properly applied to DACA's VRV-III product classes. As explained above in the DACA's Petition for Waiver, the design characteristics of the VRV-III product classes clearly prevent testing of the basic model according to the prescribed test procedures. The likelihood of DOE approving DACA's Petition for Waiver is buttressed by the DOE's history of approving previous waiver requests from DACA and from several other manufacturers for other products that are similar to the VRV-III product classes, based on the same

rationale put forth by DACA in this Petition for Waiver. See preceding discussion of waivers granted by DOE to DACA, MEUS, Fujitsu General, and Sanyo Fisher (USA) Corp.

Additionally, DACA is likely to suffer economic hardship and competitive disadvantage if DOE does not grant its interim waiver request. DACA is now preparing to introduce its VRV, VRV-S and VRV-III models covered by this petition in a matter of months. If we must wait for completion of the normal waiver consideration and issuance process, DACA will be forced to delay the opportunity to begin recouping through product sales its research, development and production costs associated with the VRV-III product classes.

DOE approval of DACA's interim waiver application is also supported by sound public policy reasons. As DOE stated in its August 14, 2006 approval of DACA's interim waiver for the VRV and VRV-S product classes:

[I]n 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.

The VRV-III product classes will provide superior comfort to the end user, will allow for independent zoning of facilities from a single outdoor unit, and will incorporate state of the art technology such as variable speed compressors utilizing neodymium magnets to increase efficiency and electronic control of compressor speed, fan speed and even metering device opening positions. The VRV-III product classes will introduce technologies that will increase system efficiency and reduce national energy consumption, and that will also offer a new level of comfort and control to end users.

DACA requests that DOE grant our Application for Interim Waiver so we can bring the new highly energy efficient technology represented by the VRV-III product classes to the market as soon as possible, thereby allowing the U.S. consumer to benefit from our high technology and high efficiency product, and from competition for other manufacturers who may have already received waivers.

Confidential Information

DACA makes no request to DOE for confidential treatment of any information contained in this Petition for Waiver and Application for Interim Waiver.

Conclusion

Daikin AC (Americas), Inc. Corporation respectfully requests DOE to grant its Petition for Waiver of the applicable test procedure to DACA for the VRV-III product designs, and to grant its Application for Interim Waiver. DOE's failure to issue an interim waiver from test standards would cause significant economic hardship and competitive disadvantage to DACA by preventing DACA from marketing these products even though DOE has previously granted a waiver to other products currently being offered in the market with similar design characteristics.

We would be pleased to respond to any questions you may have regarding this Petition for Waiver and Application for Interim Waiver. Please contact Russell Tavolacci, Assistant Vice President at 972-245-1510 or by e-mail at Russell.tavolacci@daikinac.com.

Sincerely,

Yoshinobu Inoue,
President, Daikin AC (Americas), Inc., 1645
Wallace Drive, Suite 110, Carrollton, Texas
75006.

(Submitted in triplicate)

Notice to Affected Persons

The following companies manufacture domestically marketed units of the same product type as the VRV-III product types. I hereby certify that I delivered a copy of this Petition for Waiver and Application for Interim Waiver to the persons listed below by United States First Class Mail, postage prepaid, on August 31, 2007:

Fujitsu General America, Inc., 353 Route 46
West, Fairfield, NJ 07004, Attn: Arturo
Thur De Koos, Engineering & Technical
Support.

Sanyo Fisher (USA) Corp., 1690 Roberts
Blvd., Suite 110, Kennesaw, GA 30144,
Attn: Gary Nettinger, Vice President,
Technical and Service.

Mitsubishi Electric & Electronics USA, Inc.,
4300 Lawrenceville-Suwanee Road,
Suwanee, GA 30024, Attn: William Rau,
Senior Vice President and General
Manager.

Dated August 31, 2007.

Yoshinobu Inoue,
President, Daikin AC (Americas), Inc., 1645
Wallace Drive, Suite 110, Carrollton, Texas
75006.

[FR Doc. E8-12 Filed 1-4-08; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Hanford

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Hanford. The Federal Advisory Committee Act (Pub. L. No. 92-463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Thursday, February 7, 2008, 9 a.m.–5 p.m.; Friday, February 8, 2008, 8:30 a.m.–4 p.m.

ADDRESSES: Columbia Basin College, Byron Gjerde Center, 2600 North 20th Avenue, Pasco, Washington 99301, Phone: (509) 547-0511, Fax: (509) 544-2023.

FOR FURTHER INFORMATION CONTACT: Erik Olds, Federal Coordinator, Department of Energy Richland Operations Office,

2440 Stevens Drive, P.O. Box 450, H6-60, Richland, WA 99352; Phone: (509) 372-8656; or E-mail:

Theodore_E_Erik_Olds@orp.doe.gov.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda:

- Discussion on Hanford's Fiscal Year 2008-2010 Budget.

- Tank Closure and Waste Management Environmental Impact Statement.

- Black Rock Environmental Impact Statement.

- Briefing on the State of the Columbia River Report.

- Briefing on the Technology Road Map.

- Discussion on the upcoming EM SSAB Meeting in Hanford on April 22-24, 2008.

- Hanford Advisory Board Self Evaluation.

- Hanford Advisory Board Process Manua.

- Hanford Advisory Board Budget.

- Committee Updates, including Tank Waste Committee, River and Plateau Committee, Health, Safety and Environmental Protection Committee, Public Involvement Committee, and Budgets and Contracts Committee.

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Erik Olds' office at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing or calling Erik Olds' office at the address or phone number listed above. Minutes will also be available at the following Web site <http://www.hanford.gov/?page=413&parent=397>.

Issued at Washington, DC on December 31, 2007.

Rachel Samuel,

Deputy Committee Management Officer.

[FR Doc. E8-14 Filed 1-4-08; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

[Case No. CAC-018]

Energy Conservation Program for Certain Industrial Equipment: Publication of the Petition for Waiver From Daikin AC (Americas), Inc. and Granting of the Application for Interim Waiver From the Department of Energy Commercial Package Water-Source Air Conditioner and Heat Pump Test Procedure

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 Daikin AC (Americas), Inc. (Daikin). The Petition for Waiver (hereafter "Daikin Petition") requests a waiver of the Department of Energy (DOE) test procedure applicable to commercial package water-source air conditioners and heat pumps. The waiver request is specific to the Daikin Variable Speed and Variable Refrigerant Volume VRV-WII (commercial) multi-split water-source heat pumps and heat recovery systems. Through this document, DOE is: (1) Soliciting comments, data, and information with respect to the Daikin Petition; and (2) announcing our determination granting an Interim Waiver to Daikin from the applicable DOE test procedure for commercial water-source air conditioners and heat pumps.

DATES: DOE will accept comments, data, and information with respect to the Daikin Petition until, but no later than February 6, 2008.

ADDRESSES: You may submit comments, identified by case number [CAC-018], 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. Include either the case number [CAC-018], and/or "Daikin 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.