NRR project manager for your specific nuclear power plant.

Contact

Please direct any questions about this matter to Aaron L. Szabo at 301–415–1985 or by e-mail at *aaron.szabo@nrc.gov.*

End of Draft Regulatory Issue Summary

Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/NRC/ADAMS/index.html.* If you do not have access to ADAMS or if you have problems in accessing the documents in ADAMS, contact the NRC Public Document Room (PDR) reference staff at 1–800–397–4209 or 301–415–4737 or by e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 19th day of November 2010.

For the Nuclear Regulatory Commission.

Theodore R. Quay,

Deputy Director, Division of Policy and Rulemaking, Office of Nuclear Reactor Regulation.

[FR Doc. 2010–29738 Filed 11–24–10; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF ENERGY

10 CFR Part 430

[EERE–2008–BT–TP–0010]

Compliance Testing Procedures: Correction Factor for Room Air Conditioners

AGENCY: Office of the General Counsel, Department of Energy (DOE).

ACTION: Petition for rulemaking; request for comment.

SUMMARY: On November 15, 2010, the Department of Energy received a petition for rulemaking from the Association of Home Appliance Manufacturers (AHAM). The petition, requests the initiation of a rulemaking regarding compliance testing procedures for room air conditioners. The petition seeks temporary enforcement forbearance, or in the alternative, a temporary industry-wide waiver or guidance, to allow use of a data correction factor in compliance testing procedures for room air conditioners. Public comment is requested on whether DOE should grant the petition and proceed with a rulemaking procedure on this matter.

DATES: Comments must be postmarked no later than December 27, 2010.

ADDRESSES: Any comments submitted must reference "Petition for Rulemaking: Correction Factor for Room Air Conditioners." Comments may be submitted using any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail: AHAM2-2008-TP-0010@ee.doe.gov.* Include "Petition for Rulemaking" in the subject line of the message.
- *Postal Mail:* Subid Wagley, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, EE–2J, 1000 Independence Avenue, SW., Washington, DC 20585–0121. Please submit one signed original paper copy.
- *Hand Delivery/Courier:* Subid Wagley, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, EE–2J, 1000 Independence Avenue, SW., Washington, DC 20585–0121. Please submit one signed original paper copy.

FOR FURTHER INFORMATION CONTACT: Subid Wagley, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, EE–2J, 1000 Independence Avenue, SW., Washington, DC 20585–0121, (202) 287–1414, e-mail: *subid.wagley@ee.doe.gov.* Betsy Kohl, U.S. Department of Energy, Office of General Counsel, Mail Stop GC–71, 1000 Independence Avenue, SW., Washington, DC 20585–0121, (202) 586–7796, e-mail: *elizabeth.kohl@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: The Administrative Procedure Act (APA), 5 U.S.C. 551 *et seq.,* provides among other things, that "[e]ach agency shall give an interested person the right to petition for the issuance, amendment, or repeal of a rule." (5 U.S.C. 553(e)). Pursuant to this provision of the APA, AHAM petitioned the Department of Energy for the issuance of a new rule, as set forth below. In publishing this petition for public comment, the Department of Energy is seeking views on whether it should grant the petition and undertake a rulemaking to consider the proposal contained in the petition. By seeking comment on whether to grant this petition, the Department of Energy takes no position at this time regarding the merits of the suggested rulemaking.

The proposed rulemaking sought by AHAM would allow manufacturers of room air conditioners to use a correction factor that is not currently included in the regulations governing DOE's compliance testing procedures. The petition seeks temporary enforcement forbearance, or a temporary industry-wide waiver or guidance, to allow use of this methodology. The Department of Energy seeks public comment on whether DOE should grant the petition and proceed with a rulemaking procedure on this issue.

Issued in Washington, DC, on November 18, 2010.

Scott Blake Harris,

General Counsel.

Set forth below is the full text of the Association of Home Appliance Manufacturers' petition:

Before the U.S. Department of Energy

November 15, 2010

Petition for Rulemaking

Petition of the Association of the Home Appliance Manufacturers for Temporary Enforcement Forbearance, a Temporary Industry-Wide Waiver Or Guidance To Allow Use of DOE—Proposed Correction Factor for Room Air Conditioner Testing

Pursuant to 5 U.S.C. 553(e), the Association of Home Appliance Manufacturers (AHAM) files this petition.

AHAM represents manufacturers of major, portable and floor care home appliances, and suppliers to the industry. AHAM's more than 150 members employ tens of thousands of people in the U.S. and produce more than 95% of the household appliances shipped for sale within the U.S. The factory shipment value of these products is more than $30 billion annually. The home appliance industry, through its products and innovation, is essential to U.S. consumer lifestyle, health, safety and convenience. Through its technology, employees and productivity, the industry contributes significantly to U.S. jobs and economic security. Home appliances also are a success story in terms of energy efficiency and environmental protection. New appliances often represent the most effective choice a consumer can make to reduce home energy use and costs. AHAM, relevant to this petition, represents the manufacturers of the vast majority of room air conditioners.

This petition requests temporary enforcement forbearance, or in the alternative, a temporary industry-wide waiver or guidance, to allow use of a data correction factor for room air conditioners that DOE currently

acknowledges produces more accurate results and which has been proposed (by DOE) for adoption. This relief would be automatically superseded by the effective date of the new DOE test procedure.

We do not believe that our request requires formal notice and comment but we are prepared to supply additional information for any public record or procedure. Similar to the vocation of the microwave oven test procedure, there is longstanding, sufficient public record evidence justifying this requested action. See, 75 FR 42579, 42581 (July 22, 2010).

Initially, we note that this issue stems from an endemic problem within the DOE test procedures which DOE and other stakeholders are beginning to address: The DOE test procedures are outmoded and often rely on older versions of industry practices or consensus body testing standards which have been superseded by standards which are more accurate, uniform, repeatable and reflective of actual use. Indeed, DOE has endorsed and proposed using the new ANSI/ASHRAE test procedure discussed below.

In this case, DOE currently is applying in its compliance testing program an outmoded test methodology, which is less accurate and for that reason alone may produce test results inappropriately indicating that a room air conditioner has technically incorrect ratings, does not qualify for Energy Star, or fails to meet the minimum performance standards. As discussed below, the issue relates to the current DOE recommended test procedure's failure to correct for deviation from standard barometric pressure. It is unreasonable and unfair to penalize companies during this evolving transitional period between an archaic procedure and a new, modern methodology that is more accurate. With these facts in mind, DOE compliance enforcement forbearance, or an industry-wide waiver or guidance, allowing the correction factor for room air conditioners is entirely warranted.

The issue relates to 10 CFR Part 430, Subpart B, Appendix F, promulgated in 1977. For purposes of the DOE minimum efficiency program, industry has since 1983 recognized the benefits of adjusting capacity ratings to reflect a correction factor in Section 6.1.3 of ASHRAE Standard 16–1983 (RA 99). Since 1983, AHAM's room air conditioner certification program has used this correction factor. The correction factor is based on the test room condition deviation from the standard barometric pressure of 29.92 inches of mercury. The correction factor normalizes test capacity results to standard test room conditions and thereby produces more accurate and comparable test results, as acknowledged by DOE. More specifically, the use of the correction factor when barometric pressure is >1 in. Hg below standard rating point allows capacity performance modification.

We understand that DOE or a test laboratory under contract with DOE has recently rejected use of the correction factor at the present time for purposes of certifying compliance to the DOE efficiency standard, on the ground that the correction factor is not contained in the DOE test procedure as it currently is written.

DOE has already acknowledged that its current test procedure is inaccurate due to lack of the correction factor and that the correction factor ought to be adopted. It has so indicated in its recent Supplemental Notice of Proposed Rulemaking (SNOPR) to amend the test procedure. *See* 75 FR 37594, 37635 (June 29, 2010). DOE states:

> "Section 6.1.3 of ANSI/ASHRAE Standard 16–1983 (RA 99) also introduces a correction factor based on the test room condition's deviation from the standard barometric pressure of 29.92 inches (in.) in mercury (Hg) (101 kilopascal (kPa)). Section 6.1.3 of ANSI/ASHRAE Standard 16–1983 (RA 99) states that the cooling capacity may be increased 0.8 percent for each in. Hg below 29.92 in. Hg (0.24 percent for each kPa below 101 kPa). This change would not impact the measured efficiency of units tested at standard testing conditions. The capacity correction factor provides manufacturers with more flexibility in the test room conditions while normalizing results to standard conditions.
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> * * * * *
>
> In sum, DOE has reviewed the most recent revisions of the referenced test standards. ANSI/AHAM RAC–1–R2008 and ANSI/ASHRAE Standard 16–1983 (RA 99), and has determined that incorporation by reference of these versions provide more accurate and repeatable measurements of capacity while providing greater flexibility to manufacturers in selecting equipment and facilities, and does not add any significant testing burden. Furthermore, these revisions would not impact the measurement of EER for this equipment. DOE also believes that manufacturers may already be using these updated standards in their testing. Therefore, DOE is proposing in today's SNOPR to amend the DOE test procedure to reference the relevant sections of ANSI/AHAM RAC–1–R2008 and ANSI/ASHRAE Standard 16–1983 (RA 99)."

Under these circumstances, and for the interim before final test procedure rulemaking, it is unfair and unreasonable to penalize firms by judging their product against an inaccurate methodology rather than using the correction factor, which DOE correctly asserts is more accurate and which DOE endorses and plans to adopt.

Such action by DOE is entirely warranted. In the case of microwave ovens, DOE unilaterally revoked an outmoded test procedure through a direct final rule and without prior notice. 75 FR 42579 (July 22, 2010) Here, test procedure revocation is not, requested, practical nor prudent because test standards, labels, Energy Star and incentive programs are in place. This petition does not request that DOE circumvent or repeal the test procedure, but rather that it immediately act to improve testing before administrative processes are completed.

If the current test procedure is applied to comparable room air conditioners in test rooms under different barometric pressures, it will produce materially inaccurate capacity results. DOE acknowledges the inaccuracy of the existing test procedure—by stressing that the correction factor in ASHRAE 16–1983 (RA 99) produces more accurate and repeatable test results by normalizing results to standard conditions. 75 FR at 37635. DOE states that Section 6.1.3 of ASHRAE 16–1983 (RA 99) has "a correction factor based on the test room condition's deviation from the standard barometric pressure of 29.92 inches (in.) of mercury (Hg) (101 kilopascal (kPa)) * * * The capacity correction factor provides manufacturers with more flexibility in the test room conditions *while normalizing results to standard conditions*." *Id.* (emphasis added).

DOE concluded that the correction factor "provide[s] *more accurate and repeatable measurements of capacity* while providing greater flexibility to manufacturers in selecting equipment and facilities, and does not add any significant testing burden." *Id.* (emphasis added). DOE goes on to state that it "*also believes that manufacturers may already be using these updated standards in their testing.*" *Id.* (emphasis added).

Recognizing the commercial reality and the demands of fairness, DOE and industry should be working on this issue collaboratively. DOE has proposed that its test procedure be amended to incorporate the correction factor. Unfortunately, unless DOE provides relief in the interim by procedure revision or waiver, industry will suffer from a test procedure that DOE acknowledges is inaccurate and that is harmful with no benefit to the public.

Accordingly, with this petition, AHAM requests temporary enforcement forbearance, or in the alternative, a

temporary industry-wide waiver or guidance, to allow use of the data correction factor for room air conditioners. This relief would be automatically superseded by the effective date of the new DOE test procedure.

AHAM looks forward to meeting with DOE at the earliest opportunity to discuss this important matter.

[FR Doc. 2010–29773 Filed 11–24–10; 8:45 am]

BILLING CODE 6450–01–P

FEDERAL RESERVE SYSTEM

12 CFR Part 225

[Regulation Y; Docket No. R–1397]

RIN AD 7100–58

Conformance Period for Entities Engaged in Prohibited Proprietary Trading or Private Equity Fund or Hedge Fund Activities

AGENCY: Board of Governors of the Federal Reserve System ("Board").

ACTION: Proposed rule; request for public comment.

SUMMARY: The Board is requesting comment on a proposed rule that would implement the conformance period during which banking entities and nonbank financial companies supervised by the Board must bring their activities and investments into compliance with the prohibitions and restrictions on proprietary trading and relationships with hedge funds and private equity funds imposed by section 619 of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act"). Section 619 is commonly referred to as the "Volcker Rule."

DATES: *Comments:* Comments should be received on or before January 10, 2011.

ADDRESSES: You may submit comments, identified by Docket No. R–1397 and RIN No. AD 7100–58, by any of the following methods:

- *Agency Web Site: http://www.federalreserve.gov.* Follow the instructions for submitting comments at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm.*
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail: regs.comments@federalreserve.gov.* Include Docket Number R–1397 and RIN AD 7100–58 in the subject line of the message.
- *Fax:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

All public comments are available from the Board's Web site at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room MP–500 of the Board's Martin Building (20th and C Streets, NW) between 9 a.m. and 5 p.m. on weekdays.

FOR FURTHER INFORMATION CONTACT: Brian P. Knestout, Senior Attorney, (202) 452–2249, Jeremy R. Newell, Senior Attorney, (202) 452–3239, Christopher M. Paridon, Senior Attorney, (202) 452–3274, or Kieran J. Fallon, Associate General Counsel, (202) 452–5270, Legal Division; David K. Lynch, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551. Users of Telecommunication Device for Deaf (TDD) only, call (202) 263–4869.

SUPPLEMENTARY INFORMATION:

I. Background

The Dodd-Frank Act was enacted on July 21, 2010.[1] Section 619 of the Dodd-Frank Act adds a new section 13 to the Bank Holding Company Act of 1956 ("BHC Act") (to be codified at 12 U.S.C. 1851) that generally prohibits banking entities[2] from engaging in proprietary trading or from investing in, sponsoring, or having certain relationships with a hedge fund or private equity fund.[3] The new section 13 of the BHC Act also provides for nonbank financial companies supervised by the Board that engage in such activities or have such investments to be subject to additional capital requirements, quantitative limits, or other restrictions.[4] These prohibitions and other provisions of section 619 are commonly known, and referred to herein, as the "Volcker Rule."

Specifically, the Volcker Rule prohibits banking entities from engaging in proprietary trading (as defined by the Volcker Rule) or from acquiring or retaining any ownership interest in, or sponsoring, a hedge fund or private equity fund.[5] The Volcker Rule, however, also expressly provides certain exceptions from these prohibitions, including, among others, exceptions that allow a banking entity, subject to certain terms, conditions, and restrictions, to: (i) Trade in obligations of the United States or any agency thereof, obligations issued by the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, a Federal Home Loan Bank, the Federal Agricultural Mortgage Corporation, or a Farm Credit System institution chartered under and subject to the provisions of the Farm Credit Act of 1971 (12 U.S.C. 2001 *et seq.*), and obligations of any State or of any political subdivision thereof;[6] (ii) purchase and sell securities and other instruments in connection with underwriting or market-making related activities, to the extent that any such activities are designed not to exceed the reasonable near term demands of clients, customers, or counterparties;[7] (iii) engage in risk-mitigating hedging activities in connection with and related to individual or aggregated positions, contracts, or other holdings that are designed to reduce the specific risks to the banking entity in connection with and related to such positions, contracts, or other holdings;[8] and (iv) purchase, sell, acquire, or dispose of securities and other instruments on behalf of customers.[9] Additionally, the Volcker Rule permits the appropriate agency or agencies, by rule, to grant other exceptions from the prohibitions on proprietary trading and investing in, or

[1] Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law No. 111–203, 124 Stat. 1376 (2010).

[2] The term "banking entity" is defined in section 13(h)(1) of the BHC Act, as amended by section 619 of the Dodd-Frank Act. *See* 12 U.S.C. 1851(h)(1). The term means any insured depository institution (other than certain limited purpose trust institutions), any company that controls an insured depository institution, any company that is treated as a bank holding company for purposes of section 8 of the International Banking Act of 1978 (12 U.S.C. 3106), and any affiliate or subsidiary of any of the foregoing.

[3] The Volcker Rule defines the terms "hedge fund" and "private equity fund" as an issuer that would be an investment company, as defined under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*), but for section 3(c)(1) or 3(c)(7) of that Act, or any such similar funds as the appropriate Federal banking agencies, the Securities and Exchange Commission ("SEC"), and the Commodity Futures Trading Commission ("CFTC") may, by rule, determine should be treated as a hedge fund or private equity fund. *See* 12 U.S.C. 1851(h)(2).

[4] *See* 12 U.S.C. 1851(a)(2) and (f)(4). A "nonbank financial company supervised by the Board" is a nonbank financial company or other company that has been designated by the Financial Stability Oversight Council ("FSOC") under section 113 of the Dodd-Frank Act as requiring supervision and regulation by the Board on a consolidated basis because of the danger such company may pose to the financial stability of the United States.

[5] 12 U.S.C. 1851(a)(1)(A) and (B).

[6] *Id.* at § 1851(d)(1)(A).

[7] *Id.* at § 1851(d)(1)(B).

[8] *Id.* at § 1851(d)(1)(C).

[9] *Id.* at § 1851(d)(1)(D).