

FR 10425); May 5, 2009 (74 FR 20695); December 15, 2009 (74 FR 66338), March 11, 2010 (75 FR 11530), April 29, 2010 (75 FR 22584); August 19, 2010 (75 FR 51264); March 18, 2010 (75 FR 13120), August 3, 2010 (75 FR 45623); and June 7, 2010 (75 FR 32175), respectively. The approved alternate test procedure simulates the energy used by the adaptive heaters in a typical consumer household, as explained in the respective decisions and orders referenced above. As DOE has stated in the past, it is in the public interest to have similar products tested and rated for energy consumption on a comparable basis.

Since the publication of the December notice, DOE issued an interim final rule that prescribes a particular procedure to address the type of system employed by the Electrolux products at issue. See 75 FR 78810 (December 16, 2010). This procedure would apply to those products manufactured starting in 2014.

*III. Consultations With Other Agencies*

DOE consulted with the Federal Trade Commission (FTC) staff concerning the Electrolux petition for waiver. The FTC staff did not have any objections to granting a waiver to Electrolux.

*IV. Conclusion*

After careful consideration of all the material that was submitted by Electrolux and consultation with the FTC staff, *it is ordered* that:

(1) The petition for waiver submitted by the Electrolux Home Products, Inc. (Case No. RF-017) is hereby granted as set forth in the paragraphs below.

(2) Electrolux shall not be required to test or rate the following Electrolux models: EI27BS\*\*\*\* FGUN26\*\*\*\* CFD26\*\*\* on the basis of the current test procedures contained in 10 CFR part 430, subpart B, appendix A1. Instead, it shall be required to test and rate such products according to the alternate test procedure as set forth in paragraph (3) below:

(3) Electrolux shall be required to test the products listed in paragraph (2) above according to the test procedures for electric refrigerator-freezers prescribed by DOE at 10 CFR part 430, appendix A1, except that, for the Electrolux products listed in paragraph (2) only:

(A) The following definition is added at the end of Section 1:

1.13 Variable anti-sweat heater control means an anti-sweat heater where power supplied to the device is determined by an operating condition variable(s) and/or ambient condition variable(s).

(B) Section 2.2 is revised to read as follows:

2.2 Operational conditions. The electric refrigerator or electric refrigerator-freezer shall be installed and its operating conditions maintained in accordance with HRF-1-1979, section 7.2 through section 7.4.3.3, except that the vertical ambient temperature gradient at locations 10 inches (25.4 cm) out from the centers of the two sides of the unit being tested is to be maintained during the test. Unless shields or baffles obstruct the area, the gradient is to be maintained from 2 inches (5.1 cm) above the floor or supporting platform to a height 1 foot (30.5 cm) above the unit under test. Defrost controls are to be operative. The anti-sweat heater switch is to be off during one test and on during the second test. In the case of an electric refrigerator-freezer equipped with variable anti-sweat heater control, the result of the second test will be derived by performing the calculation described in 6.2.3. Other exceptions are noted in 2.3, 2.4, and 5.1 below.

(C) New section 6.2.3 is inserted after section 6.2.2.2.

6.2.3 Variable anti-sweat heater control test. The standard cycle energy consumption of an electric refrigerator-freezer with a variable anti-sweat heater control in the on position ( $E_{on}$ ), expressed in kilowatt-hours per day, shall be calculated equivalent to:

$$E_{ON} = E + (\text{Correction Factor})$$

where E is determined by sections 6.2.1.1, 6.2.1.2, 6.2.2.1, or 6.2.2.2, whichever is appropriate, with the anti-sweat heater switch in the off position.

$$\text{Correction Factor} = (\text{Anti-sweat Heater Power} \times \text{System-loss Factor}) \times (24 \text{ hrs}/1 \text{ day}) \times (1 \text{ kW}/1000 \text{ W})$$

Where:

$$\text{Anti-sweat Heater Power} = A1 * (\text{Heater Watts at 5\%RH})$$

$$+ A2 * (\text{Heater Watts at 15\%RH})$$

$$+ A3 * (\text{Heater Watts at 25\%RH})$$

$$+ A4 * (\text{Heater Watts at 35\%RH})$$

$$+ A5 * (\text{Heater Watts at 45\%RH})$$

$$+ A6 * (\text{Heater Watts at 55\%RH})$$

$$+ A7 * (\text{Heater Watts at 65\%RH})$$

$$+ A8 * (\text{Heater Watts at 75\%RH})$$

$$+ A9 * (\text{Heater Watts at 85\%RH})$$

$$+ A10 * (\text{Heater Watts at 95\%RH})$$

where A1-A10 are defined in the following table:

|            |             |
|------------|-------------|
| A1 = 0.034 | A6 = 0.119  |
| A2 = 0.211 | A7 = 0.069  |
| A3 = 0.204 | A8 = 0.047  |
| A4 = 0.166 | A9 = 0.008  |
| A5 = 0.126 | A10 = 0.016 |

Heater Watts at a specific relative humidity = the nominal watts used by all heaters at that specific relative humidity, 72°F ambient, and DOE reference temperatures of fresh food (FF) average temperature of 45 °F and freezer (FZ) average temperature of 5 °F.

System-loss Factor = 1.3

(4) Representations. Electrolux may make representations about the energy use of its adaptive control anti-sweat heater refrigerator-freezer products for

compliance, marketing, or other purposes only to the extent that such products have been tested in accordance with the provisions outlined above and such representations fairly disclose the results of such testing.

(5) This waiver shall remain in effect consistent with the provisions of 10 CFR 430.27(m).

(6) This waiver is issued on the condition that the statements, representations, and documentary materials provided by the petitioner are valid. DOE may revoke or modify this waiver at any time if it determines the factual basis underlying the petition for waiver is incorrect, or the results from the alternate test procedure are unrepresentative of the basic models' true energy consumption characteristics.

(7) Grant of this waiver does not release a petitioner from the certification requirements set forth at 10 CFR 430.62.

Issued in Washington, DC, on March 30, 2011.

**Kathleen Hogan,**

*Deputy Assistant Secretary for Energy Efficiency, Office of Technology Development, Energy Efficiency and Renewable Energy.*

[FR Doc. 2011-8142 Filed 4-5-11; 8:45 am]

**BILLING CODE 6450-01-P**

**DEPARTMENT OF ENERGY**

**Office of Energy Efficiency and Renewable Energy**

[Case No. CAC-030]

**Energy Conservation Program for Certain Industrial Equipment: Publication of the Petition for Waiver From Mitsubishi Electric and Electronics USA, Inc. and Granting of the Interim Waiver From the Department of Energy Commercial Package Air Conditioner and Heat Pump Test Procedures**

**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 Mitsubishi Electric and Electronics USA, Inc. (Mitsubishi). The petition for waiver (hereafter "petition") requests a waiver from the U.S. Department of Energy (DOE) test procedure applicable to commercial package air-source central air conditioners and heat pumps. The petition is specific to additional indoor units of the Mitsubishi variable

capacity WR2, WY and S&L Class (commercial) multi-split heat pumps. Through this document, DOE: Solicits comments, data, and information with respect to the Mitsubishi petition; and announces the grant of an interim waiver to Mitsubishi from the existing DOE test procedure for the subject commercial multi-split air conditioners and heat pumps.

**DATES:** DOE will accept comments, data, and information with respect to the Mitsubishi petition until, but no later than May 6, 2011.

**ADDRESSES:** You may submit comments, identified by case number "CAC-030," by any of the following methods:

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

- *E-mail:*

*AS Waiver\_Requests@ee.doe.gov*.

Include the case number [CAC-030] in the subject line of the message.

- *Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE-2/1000 Independence Avenue, SW., Washington, DC 20585-0121.

Telephone: (202) 586-2945. Please submit one signed original paper copy.

- *Hand Delivery/Courier:* Ms. Brenda Edwards, 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.

*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 on 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 and waivers regarding similar central air conditioning and heat pump equipment. Please call Ms. Brenda Edwards 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: *AS Waiver\_Requests@ee.doe.gov*.

Ms. Elizabeth Kohl, U.S. Department of Energy, Office of the General Counsel, Mail Stop GC-71, Forrestal Building,

1000 Independence Avenue, SW., Washington, DC 20585-0103. Telephone: (202) 586-7796. E-mail: *mailto:Elizabeth.Kohl@hq.doe.gov*.

#### **SUPPLEMENTARY INFORMATION:**

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

Title III of the Energy Policy and Conservation Act (EPCA) sets forth a variety of provisions concerning energy efficiency, including Part B of Title III, which establishes the "Energy Conservation Program for Consumer Products Other Than Automobiles." (42 U.S.C. 6291-6309) Part C of Title III provides for a similar energy efficiency program titled "Certain Industrial Equipment," which includes commercial air conditioning equipment, package boilers, water heaters, and other types of commercial equipment.<sup>1</sup> (42 U.S.C. 6311-6317)

Today's 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, Part C authorizes the Secretary of Energy (the Secretary) to prescribe test procedures that are reasonably designed to produce results that measure 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, by rule and based on clear and convincing evidence, 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. Table 1 to Title 10 of the Code of Federal Regulations (10 CFR) 431.96 directs manufacturers of commercial package air conditioning and heating equipment to use the appropriate procedure when measuring energy efficiency of those products. The test procedures applicable to small commercial packaged air conditioning and heating water-source heat pumps, with capacities less than 135,000 Btu/h, are those included in ISO Standard 13256-1 (1998). The capacities of Mitsubishi's WR2 and WY CITY MULTI water-source products covered by this petition fall in that range. For commercial package air-source equipment with capacities between 65,000 and 760,000 Btu/h, ARI Standard 340/360-2004 is the applicable test procedure under 10 CFR 431.96. The capacities of Mitsubishi's S&L Class CITY MULTI commercial products fall in that range.

DOE's regulations for covered products permit a person to seek a waiver from the test procedure requirements for covered commercial equipment if at least one of the following conditions is met: (1) The petitioner's basic model contains one or more design characteristics that prevent testing according to the prescribed test procedures; or (2) 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). Petitioners must include in their petition any alternate test procedures known to the petitioner 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). Waivers remain in effect pursuant to the provisions of 10 CFR 431.401(g).

The waiver process also permits parties submitting 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

<sup>1</sup> For editorial reasons, upon codification in the U.S. Code, Part C was re-designated Part A-1.

determination on the petition for waiver. 10 CFR 431.401(e)(3). An interim waiver remains in effect for 180 days or until DOE issues its determination on the petition for waiver, whichever occurs first. It may be extended by DOE for an additional 180 days. 10 CFR 431.401(e)(4).

## II. Petition for Waiver

On February 18, 2011, Mitsubishi filed an application for interim waiver and a petition for waiver from the test procedures under 10 CFR 431.96 that apply to commercial package air and water-source air conditioners and heat pumps. Mitsubishi's petition requests a waiver from the applicable test procedures for its additional indoor models to be used with the WR2 and WY Series and S&L Class CITY MULTI products.

On December 15, 2009, DOE granted Mitsubishi waivers from the DOE commercial air conditioner and heat pump test procedures for Mitsubishi's WR2 and WY Series products and the S&L Class products. 74 FR 66311, 66315. Mitsubishi's February 18, 2011 petition lists additional models of indoor units for these multi-split systems. These include models in existing model families that have capacities not previously offered, as well as new indoor model families to be used with these systems. These additional indoor models face the same testing challenges as the models already covered by the WR2 and WY Series Waiver and the S&L Class Waiver.

Mitsubishi seeks a waiver from the applicable test procedures under 10 CFR 431.96 on the grounds that its WR2, WY and S&L Class multi-split heat pumps contain design characteristics that prevent testing according to the current DOE test procedures. DOE granted the WR2 and WY Series products a waiver because the basic model of these products contains one or more design characteristics that prevent testing of the basic model according to the prescribed test procedures. DOE made the same finding with respect to the S&L Class products, stating that the existing testing facilities have limited ability to test multiple indoor units at one time, and that the number of possible combinations of indoor and outdoor units is impractical to test, and thus granted Mitsubishi's requested waiver. The additional indoor models that are the subject of this petition would be used just as the products covered by the WR2 and WY Series Waiver and the S&L Class Waiver, and thus present exactly the same testing challenges.

As DOE found in its grant of the WR2 and WY Series Waiver and the S&L

Class Waiver, indoor models are not the primary efficiency drivers for these systems—the primary efficiency drivers are the outdoor units. Mitsubishi is not proposing to add new outdoor units to the WR2 and WY Series Waiver and S&L Class Waiver. The indoor units described above will be combined with the same outdoor unit models covered by the prior waivers to create multi-split systems.

## III. Application for Interim Waiver

On February 18, 2011, Mitsubishi also submitted an application for an interim waiver from the test procedures at 10 CFR 431.96 for its specified WR2, WY, and S&L equipment. DOE determined that Mitsubishi's application for interim waiver does not provide sufficient market, equipment price, shipments, and other manufacturer impact information to permit DOE to evaluate the economic hardship Mitsubishi might experience absent a favorable determination on its application for an interim waiver. DOE understands, however, that if it did not issue an interim waiver, Mitsubishi's products would not be tested and rated for energy consumption in the same manner as similar products for which DOE previously granted waivers. Furthermore, DOE has determined that it appears likely that Mitsubishi's petition for waiver will be granted and that is desirable for public policy reasons to grant Mitsubishi immediate relief pending a determination on the petition for waiver. DOE believes that it is likely Mitsubishi's petition for waiver for the new WR2, WY and S&L Class multi-split models will be granted because DOE has previously granted a number of waivers for similar product designs. The two principal reasons supporting the grant of the previous waivers also apply to Mitsubishi's WR2, WY and S&L Class products: (1) Test laboratories cannot test products with so many indoor units; and (2) it is impractical to test so many combinations of indoor units with each outdoor unit. In addition, DOE believes that similar products should be tested and rated for energy consumption on a comparable basis. For these same reasons, DOE also determined that it is desirable for public policy reasons to grant immediate relief pending a determination on the petition for waiver.

Therefore, *it is ordered that:*

The application for interim waiver filed by Mitsubishi is hereby granted for Mitsubishi's WR2, WY and S&L Class multi-split heat pumps, subject to the specifications and conditions below.

1. Mitsubishi shall not be required to test or rate its WR2, WY and S&L Class commercial multi-split products on the basis of the existing test procedures under 10 CFR 431.96, which incorporates by reference ARI 340/360–2004 (S&L Class) and ISO Standard 13256–1 (1998) (WR2 and WY classes).

2. Mitsubishi shall be required to test and rate its WR2, WY and S&L Class commercial multi-split products according to the alternate test procedure as set forth in section IV(3), "Alternate test procedure."

The interim waiver applies to the following indoor units:

- PCFY Series—Ceiling Suspended—with a capacity of 15 MBtu/h
- PEFY Series—Ceiling Concealed Ducted (Low Profile)—with a capacity of 15 MBtu/h
- PKFY Series—Wall Mounted—with a capacity of 15 MBtu/h
- PLFY Series—4-Way Airflow Ceiling Cassette—with a capacity of 15 MBtu/h
- The PEFY–AF Series—100% outdoor air ventilation systems (Concealed ducted)—PEFY–AF1200CFM/CFMR\*\*—with a maximum outside air ventilation capability of 1200 CFM
- The PVFY Series—Vertical air handler (Concealed ducted)—with capacities of 12/18/24/30/36/42/48/54 MBtu/h
- PWFY Series—Commercial Hot Water Heat Pump Indoor Units—with capacities of 36/72 MBtu/h and 36 MBtu/h with booster unit.
- PEFY Series—Ceiling Concealed Ducted—with capacities of 06/08/12/15/18/24/27/30/36/48 MBtu/h
- PLFY Series—2'-by-2' frame 4-Way Airflow Ceiling Cassette—with capacities of 8/12/15 MBtu/h

This interim waiver is issued on the condition that the statements, representations, and documents provided by the petitioner are valid. DOE may revoke or modify this interim waiver at any time if it determines the factual basis underlying the petition for waiver is incorrect or the results from the alternate test procedure are unrepresentative of the basic models' true energy consumption characteristics.

DOE makes decisions on waivers and interim waivers for only those models specifically set out in the petition, not future models that may be manufactured by the petitioner. MEUS may submit a new or amended petition for waiver and request for grant of interim waiver, as appropriate, for additional models of commercial package air conditioners and heat pumps for which it seeks a waiver from the DOE test procedure. In

addition, DOE notes that grant of an interim waiver or waiver does not release a petitioner from the certification requirements set forth at 10 CFR Part 431, Subpart T.

#### IV. Alternate Test Procedure

In responses to 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. See 72 FR 17528 and 72 FR 17533. The same alternate test procedure was specified in the December 15, 2009 waivers. For reasons similar to those published in these prior notices, DOE believes that an alternate test procedure is appropriate in this instance.

We further note that after DOE granted a waiver for Mitsubishi's multi-split products, ARI formed a committee to discuss testing issues and to develop a testing protocol for variable refrigerant flow systems. The committee has developed a test procedure which has been adopted by AHRI—"ANSI/AHRI 1230—2010: Performance Rating of Variable Refrigerant Flow (VRF) Multi-Split Air-Conditioning and Heat Pump Equipment" and incorporated into ASHRAE 90.1—2010. The commercial multisplit waivers that DOE has granted to Mitsubishi and several other manufacturers and the alternate test procedure set forth in those waivers are consistent with AHRI 1230—2010. The waivers use a definition of "tested combination" that is substantially the same as the definition in AHRI 1230—2010. As a result, DOE is considering prescribing ANSI/AHRI 1230—2010 in the subsequent decision and order as the alternate test procedure for this Mitsubishi waiver. For the interim waiver, however, DOE will continue to require the use of the alternate test procedure prescribed in the past multisplit waivers.

Therefore, as a condition for granting this interim waiver to Mitsubishi, DOE is including an alternate test procedure similar to those granted to Mitsubishi in its previous waivers and identical to the ones granted on December 15, 2009. This alternate test procedure will allow Mitsubishi to test and make energy efficiency representations for its WR2, WY and S&L Class products. DOE has applied a similar alternate test procedure to other waivers for similar residential and commercial central air conditioners and heat pumps

manufactured by Mitsubishi (72 FR 17528, April 9, 2007); Samsung (72 FR 71387, Dec. 17, 2007); Fujitsu (72 FR 71383, Dec. 17, 2007); Daikin (73 FR 39680, July 10, 2008); Daikin (74 FR 15955, April 8, 2009); Daikin (74 FR 16193, April 9, 2009); Daikin (74 FR 16373, April 10, 2009); Mitsubishi (74 FR 66311, 66315, December 15, 2009) and LG (74 FR 66330, December 15, 2009).

The alternate test procedure developed in conjunction with the Mitsubishi waiver permits Mitsubishi to designate a "tested combination" for each model of outdoor unit. The indoor units designated as part of the tested combination must meet specific requirements. For example, the tested combination must have from two to eight indoor units so that it can be tested in available test facilities. (The "tested combination" was originally defined to consist of one outdoor unit matched with between 2 and 5 indoor units. The maximum number of indoor units in a tested combination is increased in this instance from 5 to 8 to account for the fact that these larger-capacity products can accommodate a greater number of indoor units.) The tested combination must be tested according to the applicable DOE test procedure, as modified by the provisions of the alternate test procedure as set forth below. The alternate test procedure also allows manufacturers of such products to make valid and consistent representations of energy efficiency for their air-conditioning and heat pump products.

DOE plans to consider inclusion of the following waiver language in the decision and order for Mitsubishi's WR2, WY and S&L Class commercial multi-split water-source heat pump models:

Mitsubishi shall not be required to test or rate its WR2, WY and S&L Class commercial multi-split heat pumps according to the existing test procedures under Table 1 of 10 CFR 431.96, which incorporates by reference the Air-Conditioning and Refrigeration Institute (ARI) Standard 340/360—2004 for the air-source S&L Class products, and ISO Standard 13256—1998 for the water-source WR2 and WY Series products. Mitsubishi will be required, however, to test and rate its WR2, WY and S&L Class commercial multi-split heat pumps covered in this waiver according to the alternate test procedure as set forth below:

(A) Mitsubishi shall be required to test the basic models of WR2, WY and S&L Class water and air-source outdoor units and compatible indoor units listed in its petition for waiver dated February 18, 2011, according to the test procedures for commercial central air conditioners and heat pumps prescribed under 10 CFR 431.96, except that Mitsubishi shall test a "tested

combination" selected in accordance with the provisions of subparagraph (B). For every other system combination using the same outdoor unit as the tested combination, Mitsubishi shall make representations concerning the WR2, WY and S&L Class equipment covered in this interim waiver according to the provisions of subparagraph (C).

(B) Tested combination. The term tested combination means a sample basic model comprised of units that are production units, or are representative of production units, of the basic model being tested. For the purposes of this waiver, the tested combination shall have the following features:

(1) The basic model of a variable refrigerant flow system used as a tested combination shall consist of one outdoor unit, with one or more compressors, that is matched with between two and five indoor units. (For systems with nominal cooling capacities greater than 150,000 Btu/h, as many as eight indoor units may be used, so that non-ducted indoor unit combinations can also be tested.) 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 cooling capacity that is between 95% and 105% of the nominal cooling capacity of the outdoor unit;

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

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

(v) 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 WR2, WY and S&L Class variable capacity multi-split heat pump products for compliance, marketing, or other purposes, Mitsubishi must fairly disclose the results of testing under the DOE test procedure in a manner consistent with the provisions outlined below:

(1) For WR2, WY and S&L Class combinations tested in accordance with this alternate test procedure, Mitsubishi may make representations based on these test results.

(2) For WR2, WY and S&L Class combinations that are not tested, Mitsubishi may make representations of non-tested combinations at the same energy efficiency level as the tested combination. The outdoor unit must be the one used in the tested combination. The representations must be based on the test results for the tested combination. The representations may also be determined by an Alternative Rating Method approved by DOE.

## V. Summary and Request for Comments

Through today's notice, DOE announces receipt of the Mitsubishi petition for waiver from the test procedures applicable to Mitsubishi's WR2, WY and S&L Class commercial multi-split heat pump products. For the reasons articulated above, DOE also grants Mitsubishi an interim waiver from those procedures. As part of this notice, DOE is publishing Mitsubishi's petition for waiver in its entirety. The petition contains no confidential information. Furthermore, today's notice includes an alternate test procedure that Mitsubishi is required to follow as a condition of its interim waiver. In this alternate test procedure, DOE is defining a tested combination that Mitsubishi could use in lieu of testing all retail combinations of its WR2, WY and S&L Class multi-split heat pump products.

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, pursuant to 10 CFR 431.401(d). The contact information for the petitioner is: William Rau, Senior Vice President and General Manager, HVAC Advanced Products Division, Mitsubishi Electric & Electronics USA, Inc., 4300 Lawrenceville-Suwanee Road, Suwanee, GA 30024. 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. DOE does not accept telefacsimiles (faxes).

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.

Issued in Washington, DC, on March 30, 2011.

**Kathleen Hogan,**

*Deputy Assistant Secretary for Energy Efficiency, Office of Technology Development, Energy Efficiency and Renewable Energy.*

February 18, 2011

The Honorable Cathy Zoi, Assistant Secretary for Energy Efficiency and Renewable Energy, U.S. Department of Energy, 1000 Independence Ave, SW., Washington, DC 20585-0121

Re: *Update to Previously-Granted Test Procedure Waivers for CITY MULTI VRFZ WR2 and WY Series and S&L Class Air Conditioners and Heat Pumps*

Dear Assistant Secretary Zoi:

On December 15, 2009, the Department of Energy (DOE) granted Mitsubishi Electric & Electronics USA, Inc. (MEUS) a waiver from the DOE commercial air conditioner and heat pump test procedures for MEUS's WR2 and WY Series products<sup>1</sup> and the S&L Class products.<sup>2</sup> These products are part of MEUS's CITY MULTI Variable Refrigerant Flow Zoning (VRFZ) line of multi-split central air conditioners and heat pumps. As explained in MEUS's petitions for waiver for the WR2 and WY Series and the S&L Class products, these systems cannot be tested according to the prescribed test procedures for commercial products. Pursuant to DOE's grant of the waivers, MEUS is not required to test or rate the products listed in the waivers based on the currently applicable test procedure. Instead, MEUS is required to test and rate these products according to the alternate test procedure set forth in the waivers.

MEUS has now developed additional models of indoor units for these multi-split systems. These include both models in certain existing model families that have capacities not previously offered, as well as new indoor model families to be used with these systems. These additional indoor models face the same testing challenges as the models already covered by the WR2 and WY Series Waiver and the S&L Class Waiver. Specifically, they

<sup>1</sup> Energy Conservation Program for Certain Industrial Equipment: Decision and Order Granting a Waiver to Mitsubishi Electric and Electronics USA, Inc. From the Department of Energy Commercial Package Water-Source Heat Pump Test Procedure, 74 Fed. Reg. 66311 (Dec. 15, 2009) ("WR2 and WY Series Waiver").

<sup>2</sup> Energy Conservation Program for Certain Industrial Equipment: Decision and Order Granting a Waiver to Mitsubishi Electric & Electronics USA, Inc. From the Department of Energy Commercial Package Air Conditioner and Heat Pump Test Procedures, 74 Fed. Reg. 66315 (Dec. 15, 2009) ("S&L Class Waiver").

contain one or more design characteristic that prevents testing according to the test procedures. Therefore, MEUS respectfully requests that DOE update the list of models covered by the applicable test procedure waivers to cover these additional indoor models.<sup>3</sup> MEUS simultaneously requests an interim waiver covering systems using these additional indoor models.

MEUS frames this request to update the list of models covered by two already-granted waivers pursuant to the requirements for granting new test procedure waivers.<sup>4</sup> Given that this request simply addresses the addition of certain new indoor models for MEUS's WR2 and WY Series and the S&L Class products, and that DOE previously has granted waivers for the outdoor units and other indoor units for these systems, if DOE would prefer to utilize a procedurally simpler approach for updating the covered list of models, MEUS would welcome such an approach.

### *Background*

On October 30, 2006, MEUS submitted a Petition for Waiver from the test procedures applicable to the water-source WR2 and WY Series of its CITY MULTI VRFZ line of commercial package heat pump equipment. Mitsubishi sought a waiver from the applicable test procedures because the design characteristics of these models prevented testing according to the currently prescribed test procedures. Specifically, these models can connect an outdoor unit to many more indoor units than the test laboratories can physically test at one time, and it is not practical to test all of the potentially available combinations. DOE granted the requested waiver because "the basic model [of these products] contains one or more design characteristics which \* \* \* prevent testing of the basic model according to the prescribed test procedures."<sup>5</sup> The waiver included an alternate test procedure pursuant to which MEUS must test and rate the products covered by the waiver.

On March 28, 2008, MEUS submitted a Petition for Waiver from the test procedures applicable to the S&L Class models from MEUS's CITY MULTI VRFZ line of commercial package heat pump equipment. MEUS based its request on the fact that the testing laboratories cannot test systems with so many indoor units, and that there are

<sup>3</sup> The existing WR2 and WY Series Waiver and S&L Class Waiver would remain in effect until DOE modifies those waivers in accordance with this request.

<sup>4</sup> See 10 CFR § 431.401.

<sup>5</sup> WR2 and WY Series Waiver at 66313.

too many possible combinations of indoor units with a single outdoor unit to test. DOE agreed with MEUS that the existing testing facilities have limited ability to test multiple indoor units at one time, and that the number of possible combinations of indoor and outdoor units is impractical to test, and thus granted MEUS's requested waiver.<sup>6</sup> DOE approved an alternate test procedure pursuant to which MEUS must test and rate the models covered by the waiver.

#### *New Indoor Models*

Both the WR2 and WY Series Waiver and the S&L Class Waiver covered the following indoor model families: (1) PCFY Series—Ceiling Suspended; (2) PEFY Series—Ceiling Concealed Ducted (Low Profile); (3) PKFY Series—Wall Mounted; and (4) PLFY Series—4-Way Airflow Ceiling Cassette. For each of these indoor model families, MEUS has developed an additional model with a capacity of 15 MBtu/h. At the time MEUS initially filed its petitions for waiver for the WR2 and WY Series and S&L Class products, this capacity product was not available. MEUS has developed this additional capacity product to meet customer demands for specialized applications.

When MEUS originally applied for a waiver for its WR2 and WY Series and its S&L Class products, it only included those indoor units that were being produced at that time. MEUS has now developed new indoor model types to expand its CITY MULTI product line to offer consumers a greater variety of available indoor units to suit consumers' specific needs. MEUS plans to add five new types of indoor unit families to the line-up of indoor units that can be matched with the CITY MULTI outdoor units. The new indoor model families will be: (1) PEFY-AF; (2) PVFY; (3) PWFY; (4) PLFY Series—2'-by-2' frame 4-Way Airflow Ceiling Cassette; and (5) PEFY Series—Ceiling Concealed Ducted. The difference between these new indoor models and the models previously covered by the waivers relates to their application. All of the new models have been developed for specialized applications to meet consumers' unique demands.

MEUS requests that the WR2 and WY Series Waiver and the S&L Class Waiver be updated to cover the following additional indoor units:

- PCFY Series—Ceiling Suspended—with a capacity of 15 MBtu/h
- PEFY Series—Ceiling Concealed Ducted (Low Profile)—with a capacity of 15 MBtu/h

- PKFY Series—Wall Mounted—with a capacity of 15 MBtu/h
- PLFY Series—4-Way Airflow Ceiling Cassette—with a capacity of 15 MBtu/h
  - The PEFY-AF Series—100% outdoor air ventilation systems (Concealed ducted)—PEFY-AF1200CFM/CFMR\*\*—with a maximum outside air ventilation capability of 1200 CFM
  - The PVFY Series—Vertical air handler (Concealed ducted)—with capacities of 12/18/24/30/36/42/48/54 MBtu/h
  - PWFY Series—Commercial Hot Water Heat Pump Indoor Units—with capacities of 36/72 MBtu/h and 36 MBtu/h with booster unit.
  - PEFY Series—Ceiling Concealed Ducted—with capacities of 06/08/12/15/18/24/27/30/36/48 MBtu/h
  - PLFY Series—2'-by-2' frame 4-Way Airflow Ceiling Cassette—with capacities of 8/12/15 MBtu/h

For DOE's convenience, MEUS is attaching comprehensive lists of all of the models for the WR2 and WY Series and S&L Class systems that include the outdoor and indoor models covered by previously granted waivers in the WR2 and WY Series Waiver and the S&L Class Waiver, plus the additional indoor models that are the subject of this petition. MEUS respectfully requests that DOE replace, in its entirety, the lists of models included in the WR2 and WY Series Waiver and the S&L Class Waiver with the lists included as Attachment A and Attachment B to this petition upon grant of this waiver petition. Having an updated comprehensive list will assist DOE and market participants in easily keeping track of all of the WR2 and WY Series and S&L Class models that are subject to a DOE-granted waiver.

#### *Test Procedures From Which Waiver Is Requested*

MEUS's petition requests waiver from the applicable test procedures for its additional indoor models to be used with the WR2 and WY Series and S&L Class CITY MULTI products.

For the water source products, DOE's regulations provide the test procedures for small and large commercial package air conditioning and heating equipment.<sup>7</sup> Pursuant to 10 CFR § 431.96, the test procedures applicable to small commercial packaged air conditioning and heating water-source heat pumps, with capacities less than 135,000 Btu/h, are those included in ISO Standard 13256-1 (1998).<sup>8</sup> The capacities of MEUS's WR2 and WY CITY MULTI water-source products

covered by this petition fall in that range. Therefore, MEUS requests waiver from ISO Standard 13256-1 (1998), as incorporated by reference in DOE's regulations for its WR2 and WY Series products.

MEUS's petition also requests waiver from the commercial test procedures for its S&L Class products. For commercial package air conditioning equipment with capacities between 65,000 and 760,000 Btu/h, ARI Standard 340/360-2004 is the applicable test procedure under 10 CFR § 431.96. The capacities of MEUS's S&L Class CITY MULTI products sold for commercial use fall in that range. Therefore, MEUS requests waiver from ARI Standard 340/360-2004 as incorporated by reference in DOE's regulations for MEUS's S&L Class products.

MEUS proposes to test and rate a tested combination for each individual outdoor unit of the WR2 and WY Series products and the S&L Class products pursuant to the applicable alternate test procedure already specified in the WR2 and WY Series Waiver and the S&L Class Waiver, as discussed below.

#### *Need for Waiver of Test Procedures*

The Department's regulations contain provisions allowing a person to seek a waiver from the test procedure requirements for commercial equipment. These provisions are set forth in 10 CFR § 431.401. The waiver provisions allow DOE to temporarily waive test procedures for a particular basic model when a petitioner shows that the basic model contains one or more design characteristics that prevent testing according to the prescribed test procedures, or when 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.<sup>9</sup>

As explained above, DOE granted the WR2 and WY Series products a waiver because "the basic model [of these products] contains one or more design characteristics which \* \* \* prevent testing of the basic model according to the prescribed test procedures."<sup>10</sup> DOE made the same finding with respect to the S&L Class products, stating that the existing testing facilities have limited ability to test multiple indoor units at one time, and that the number of possible combinations of indoor and outdoor units is impractical to test, and thus granted MEUS's requested

<sup>7</sup> 10 CFR § 431.96.

<sup>8</sup> 10 CFR § 431.96, Table 1.

<sup>9</sup> 10 CFR § 431.401(a)(1).

<sup>10</sup> WR2 and WY Series Waiver at 66313.

<sup>6</sup> S&L Class Waiver at 66317.

waiver.<sup>11</sup> The additional indoor models that are the subject of this petition would be used just as the products covered by the WR2 and WY Series Waiver and the S&L Class Waiver, and thus present exactly the same testing challenges. Thus, DOE should grant the requested waiver.

As DOE found in its grant of the WR2 and WY Series Waiver and the S&L Class Waiver, indoor models are not the primary efficiency drivers for these systems—the primary efficiency drivers are the outdoor units.<sup>12</sup> MEUS is not proposing to add new outdoor units to the WR2 and WY Series Waiver and S&L Class Waiver. The indoor units described above will be combined with the same outdoor unit models covered by the prior waivers to create VRFZ systems.

It should be noted that these CITY MULTI products employ advanced technologies and their marketing will advance the goals of the Energy Policy and Conservation Act (EPCA) to promote energy efficiency. Testing procedures should not inhibit the commercial success of these products in the United States. Without a waiver of the test procedures, MEUS will be at a competitive disadvantage in the market. Consumers have come to expect the availability of the CITY MULTI products in the U.S. marketplace, and a significant number of engineers and contractors are currently requesting these WR2 and WY and S&L Class products for their projects because of the great advantages they offer. Thus, MEUS respectfully requests that DOE grant a waiver from the applicable test procedures.

#### Alternative Test Procedures

Both the WR2 and WY Series Waiver and the S&L Class Waiver include alternate test procedures pursuant to which MEUS tests and rates its water source and S&L class products.<sup>13</sup> No changes to those alternate test procedures are needed to cover the additional indoor units that are the subject of this petition. Therefore, MEUS requests that the products listed herein be subject to the same alternate test procedures as in the WR2 and WY Series Waiver and the S&L Class Waiver, as applicable.

For DOE's convenience, MEUS is reproducing the alternate test procedures included in the WR2 and WY Series Waiver and the S&L Class Waiver as Attachment C and Attachment D to this petition.

#### Similar Products

To the best of our knowledge, water-source VRFZ products or products similar to MEUS's S&L Class products are also offered in the United States by Daikin AC (Americas), LG Electronics U.S.A., Inc., Fujitsu Gen America Inc., Samsung Electronics Company, LTD., and Sanyo Fisher (USA) Corp.

#### Application for Interim Waiver

Pursuant to 10 CFR § 431.401(a)(2), MEUS also submits an application for interim waiver of the applicable test procedures for the WR2 and WY CITY MULTI indoor models and the S&L Class indoor models listed above. DOE's regulations contain provisions allowing DOE to grant an interim waiver from the test procedure requirements to manufacturers that have petitioned the Department for a waiver of such prescribed test procedures.<sup>14</sup> As DOE has stated, "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 Assistant Secretary determines that it would be desirable for public policy reasons to grant immediate relief pending a determination for the Petition for Waiver."<sup>15</sup> MEUS will experience economic hardship if the application for interim waiver is denied. Additionally, precedent indicates that DOE will likely grant MEUS's petition for waiver. Finally, it is in the public interest to grant an interim waiver. Therefore, MEUS respectfully requests DOE to grant the application for interim waiver.

MEUS plans to introduce the additional WR2 and WY Series and the S&L Class indoor models into the U.S. market soon. The procedure for granting a waiver is a time-consuming process—DOE must publish the request in the **Federal Register**, allow time for public comment, and then consider any comments before it makes a decision. Thus, the process typically takes a

number of months. If an interim waiver is not granted, MEUS will suffer economic hardship because MEUS will be required to delay its introduction of these products to U.S. customers.

In addition, DOE will likely grant MEUS's request to update the previously-granted waivers to include the products covered by this request. As described above, DOE has already granted a waiver for the WR2 and WY Series and S&L Class products. The indoor models that are the subject of this request include the same design characteristics that prevented testing of the basic model of the products listed in the WR2 and WY Series Waiver and the S&L Class Waiver. The best evidence that DOE is likely to grant this request is the fact that it previously granted similar waivers to MEUS and other manufacturers.<sup>16</sup>

<sup>16</sup> See WR2 and WY Series Waiver and the S&L Class Waiver. See also, *Energy Conservation Program for Consumer Products: Decision and Order Granting a Waiver From the DOE Commercial Package Air Conditioner and Heat Pump Test Procedure to Mitsubishi Electric (Case No. CAC-008)*, 69 Fed. Reg. 52660 (Aug. 27, 2004); *Energy Conservation Program for Consumer Products: Decision and Order Granting a Waiver From the Department of Energy (DOE) Residential and Commercial Package Air Conditioner and Heat Pump Test Procedures to Mitsubishi Electric, and Modification of a 2004 Waiver Granted to Mitsubishi Electric From the Same DOE Test Procedures (Case No. CAC-012)*, 72 Fed. Reg. 17528 (Apr. 9, 2007); *Energy Conservation Program for Consumer Products: Decision and Order Granting a Waiver to Fujitsu General From the Department of Energy Residential Central Air Conditioner and Heat Pump Test Procedure [Case No. CAC-010]*, 72 Fed. Reg. 71383 (Dec. 17, 2007); *Energy Conservation Program for Consumer Products: Decision and Order Granting a Waiver to Samsung Air Conditioning From the Department of Energy Residential and Commercial Package Air Conditioner and Heat Pump Test Procedures [Case No. CAC-009]*, 72 FR 71387 (Dec. 17, 2007); *Energy Conservation Program for Consumer Products: Decision and Order Granting a Waiver to Daikin U.S. Corporation From the Department of Energy Commercial Package Air Conditioner and Heat Pump Test Procedures and Denying a Waiver From the Residential Central Air Conditioner and Heat Pump Test Procedures*, 73 Fed. Reg. 39680 (July 10, 2008); *Energy Conservation Program for Commercial Equipment: Decision and Order Granting a Waiver to Daikin AC (Americas), Inc. From the Department of Energy Commercial Package Air Conditioner and Heat Pump Test Procedures*, 74 Fed. Reg. 15955 (Apr. 8, 2009); *Energy Conservation Program for Commercial Equipment: Decision and Order Granting a Waiver to Sanyo Fisher Company From the Department of Energy Commercial Package Air Conditioner and Heat Pump Test Procedure and Denying a Waiver From the Residential Central Air Conditioner and Heat Pump Test Procedure*, 74 Fed. Reg. 16193 (Apr. 9, 2009); *Energy Conservation Program for Certain Industrial Equipment: Decision and Order Granting a Waiver to Daikin AC (Americas), Inc. From the Department of Energy Commercial Package Water-Source Air Conditioner and Heat Pump Test Procedure*, 74 FR 16373 (Apr. 10, 2009); *Energy Conservation Program for Commercial Equipment: Decision and Order Granting a Waiver to Daikin AC (Americas), Inc. (Daikin) From the Department of Energy Commercial Package Air*

<sup>11</sup> S&L Class Waiver at 66317.

<sup>12</sup> "DOE believes that allowing MEUS to make energy efficiency representations for non-tested combinations by adopting this alternative test procedure as described above is reasonable because the outdoor unit is the principal efficiency driver." S&L Class Waiver at 66317. See also WR2 and WY Series Waiver at 66313.

<sup>13</sup> WR2 and WY Series Waiver at 66313; S&L Class Waiver at 66317.

<sup>14</sup> 10 CFR § 431.401(a)(2).

<sup>15</sup> *Energy Conservation Program for Consumer Products: Publication of the Petition for Waiver and Granting of the Application for Interim Waiver of Samsung Air Conditioning From the DOE Residential and Commercial Package Air Conditioner and Heat Pump Test Procedures (Case No. CAC-009)*, 70 Fed. Reg. 9629 at 9630 (Feb. 28, 2005). See 10 CFR § 431.201(e)(3) (2005).

Finally, DOE's regulations state that the Assistant Secretary may grant an interim waiver if he determines that it would be desirable for public policy reasons to grant immediate relief pending a determination for the Petition for Waiver. In response to MEUS's Application for Interim Waiver for its WR2 and WY products, DOE stated that "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."<sup>17</sup> The same conclusion should be reached with respect to the additional indoor models listed in this petition. These products will suffer the same testing obstacles as the products covered by the earlier waivers. Therefore, since it is in the public interest to have similar products tested and rated on a comparable basis, DOE should grant MEUS's Application for Interim Waiver.

### Conclusion

MEUS respectfully requests that DOE update the list of models covered by WR2 and WY Series Waiver and the S&L Class Waiver to cover the additional indoor models listed in this request. DOE should grant this request because the list of covered products, as updated, "contain[] one or more design characteristics which \* \* \* prevent testing of the basic model according to the prescribed test procedures."<sup>18</sup> MEUS further requests DOE to grant its request for an interim waiver while this request is pending.

If you have any questions or would like to discuss this request, please contact Paul Doppel, at (678) 376-2923, or Douglas Smith at (202) 298-1902. We greatly appreciate your attention to this matter.

Sincerely,

William Rau, Senior Vice President and General Manager, HVAC Advanced Products Division, Mitsubishi Electric & Electronics USA, Inc., 4300

*Conditioner and Heat Pump Test Procedures*, 75 Fed. Reg. 22581 (Apr. 29, 2010); and *Energy Conservation Program for Certain Commercial and Industrial Equipment: Decision and Order Granting a Waiver to Sanyo North America Corporation From the Department of Energy Commercial Package Air Conditioner and Heat Pump Test Procedures*, 75 Fed. Reg. 41845 (July 19, 2010);

<sup>17</sup> *Energy Conservation Program for Consumer Products: Publication of the Petition for Waiver and Granting of the Application for Interim Waiver of Mitsubishi Electric From the DOE Commercial Water Source Heat Pump Test Procedure [Case No. CAC-015]*, 72 Fed. Reg. 17533 at 17535 (Apr. 9, 2007).

<sup>18</sup> 10 CFR § 431.201(a)(1) (2005).

Lawrenceville-Suwanee Road,  
Suwanee, GA 30024.

Attachments

### CERTIFICATE

I hereby certify that I have this day served the foregoing Petition for Waiver and Application for Interim Waiver upon the following companies known to Mitsubishi Electric & Electronics USA, Inc. to currently market systems in the United States that appear to be similar to the WR2 and WY Series or the S&L CITY MULTI VRFZ system design. I have notified these manufacturers that the Assistant Secretary for Energy Efficiency and Renewable Energy will receive and consider timely written comments on the Application for Interim Waiver.

Daikin AC (Americas), Inc., 1645  
Wallace Drive, Suite 110, Carrollton,  
TX 75006, Attn: Mike Bregenzler, VP  
and GM.

LG Electronics U.S.A., Inc., 1000 Sylvan  
Ave, Englewood Cliffs, NJ 07632,  
Attn: Johnson Christopher,  
Environmental Manager.

Samsung Air Conditioning, Samsung  
Electronics Company, LTD., 3001  
Northern Star Blvd, Ft Worth TX  
76137, Attn: Matt Wall.

Sanyo Commercial Solutions, HVAC  
Solutions, 1690 Roberts Blvd Nw,  
Suite 110, Kennesaw, GA 301, Attn:  
Gary Nettinger, Vice President,  
Technical Solutions.

Fujitsu General America, 353 US  
Highway 46, Fairfield, NJ 07004-  
2437, Attn: Rozylowicz Tedd,  
President & COO.

Dated this 18th day of February, 2011.  
William Rau, Senior Vice President and  
General Manager, HVAC Advanced  
Products Division, Mitsubishi Electric  
& Electronics USA, Inc., 3400  
Lawrenceville-Suwanee Road,  
Suwanee, GA 30024.

### Attachment A

#### Complete List of Models for the WR2 and WY Series (As updated in February 2011)

*CITY MULTI Variable Refrigerant Flow Zoning System Outdoor Equipment:*

- WY-Series (PQHY) 208/230-3-60 and 460-3-60 split-system, water-sourced, variable-speed heat pumps with individual model nominal cooling capacities of 72,000, 96,000, 108,000 and 120,000 Btu/h.

- WR2-Series (PQRY) 208/230-3-60 and 460-3-60 split-system, water-sourced, variable-speed heat pumps with heat recovery and with individual model nominal cooling capacities of 72,000, 96,000, 108,000 and 120,000 Btu/h.

*CITY MULTI Variable Refrigerant Flow Zoning System Indoor Equipment: P\*FY indoor models, ranging from 6,000 to 48,000 Btu/h, 208/230-1-60 and from 72,000 to 120,000 Btu/h, 208/230-3-60 for use in split*

*system variable-capacity air conditioner or heat pump systems:*

- PCFY Series—Ceiling Suspended—with capacities of 12/15/18/24/30/36 MBtu/h.

- PDFY Series—Ceiling Concealed Ducted—with capacities of 06/08/12/15/18/24/27/30/36/48 MBtu/h.

- PEFY Series—Ceiling Concealed Ducted (Low Profile)—with capacities of 06/08/12/15/18/24 MBtu/h.

- PEFY Series—Ceiling Concealed Ducted (Alternate High Static Option)—with capacities of 15/18/24/27/30/36/48/54/72/96 MBtu/h.

- PEFY-F Series—Ceiling Concealed Ducted (100% OA Option)—with capacities of 30/54/72/96/120 MBtu/h.

- PEFY Series—Ceiling Concealed Ducted—with capacities of 06/08/12/15/18/24/27/30/36/48 MBtu/h.

- The PEFY-AF Series—100% outdoor air ventilation systems (Concealed ducted)—PEFY-AF1200CFM/CFMR\*\*—with a maximum outside air ventilation capability of 1200 CFM.

- PFFY Series—Floor Standing (Concealed)—with capacities of 06/08/12/15/18/24 MBtu/h.

- PFFY Series—Floor Standing (Exposed)—with capacities of 06/08/12/15/18/24 MBtu/h.

- PKFY Series—Wall-Mounted—with capacities of 06/08/12/15/18/24/30 MBtu/h.

- PLFY Series—4-Way Airflow Ceiling Cassette—with capacities of 12/15/18/24/30/36 MBtu/h.

- PLFY Series—2'-by-2' frame 4-Way Airflow Ceiling Cassette—with capacities of 8/12/15 MBtu/h.

- PMFY Series—1-Way Airflow Ceiling Cassette—with capacities of 06/08/12/15 MBtu/h.

- PVFY Series—Vertical air handler (Concealed ducted)—with capacities of 12/18/24/30/36/42/48/54 MBtu/h

- PWFY Series—Commercial Hot Water Heat Pump Indoor Units—with capacities of 36/72 MBtu/h and 36 MBtu/h with booster unit.

### Attachment B

#### Complete List of Models for the S&L Class Systems (As Updated in February 2011)

*CITY MULTI Variable Refrigerant Flow Zoning System Outdoor Equipment:*

- Y-Series (PUHY) 208/230-3-60 and 460-3-60 split-system variable-speed heat pumps with individual model nominal capacities ranging from 65,000 to 144,000 Btu/h, and combined model nominal capacities ranging from 130,000 to 480,000 Btu/h.

- H2I-Series (PUHY-HP) 208/230-3-60 and 460-3-60 split-system variable speed heat pumps with hyper-heat technology, with individual model nominal capacities ranging from 65,000 to 120,000 Btu/h, and combined model nominal capacities ranging from 130,000 to 300,000 Btu/h.

- R2-Series (PURY) 208/230-3-60 and 460-3-60 split-system variable speed heat pumps with heat recovery and with individual model nominal capacities ranging from 65,000 to 144,000 Btu/h, and combined model nominal capacities ranging from 130,000 to 300,000 Btu/h.



*CITY MULTI Variable Refrigerant Flow Zoning System Indoor Equipment:*

*P\*FY indoor models, ranging from 6,000 to 48,000 Btu/h, 208/230-1-60 and from 72,000 to 120,000 Btu/h, 208/230-3-60 for use in split system variable-capacity air conditioner or heat pump systems:*

- PCFY Series—Ceiling Suspended—with capacities of 12/15/18/24/30/36 MBtu/h.
- PDFY Series—Ceiling Concealed Ducted—with capacities of 06/08/12/15/18/24/27/30/36/48 MBtu/h.
- PEFY Series—Ceiling Concealed Ducted (Low Profile)—with capacities of 06/08/12/15/18/24 MBtu/h.
- PEFY Series—Ceiling Concealed Ducted (Alternate High Static Option)—with capacities of 15/18/24/27/30/36/48/54/72/96 MBtu/h.
- PEFY—F Series—Ceiling Concealed Ducted (100% OA Option)—with capacities of 30/54/72/96/120 MBtu/h.
- PEFY Series—Ceiling Concealed Ducted—with capacities of 06/08/12/15/18/24/27/30/36/48 MBtu/h.
- The PEFY—AF Series—100% outdoor air ventilation systems (Concealed ducted)—PEFY—AF1200CFM/CFMR\*\*—with a maximum outside air ventilation capability of 1200 CFM.
- PFFY Series—Floor Standing (Concealed)—with capacities of 06/08/12/15/18/24 MBtu/h.
- PFFY Series—Floor Standing (Exposed)—with capacities of 06/08/12/15/18/24 MBtu/h.
- PKFY Series—Wall-Mounted—with capacities of 06/08/12/15/18/24/30 MBtu/h.
- PLFY Series—4-Way Airflow Ceiling Cassette—with capacities of 12/15/18/24/30/36 MBtu/h.
- PLFY Series—2'-by-2' frame 4-Way Airflow Ceiling Cassette—with capacities of 8/12/15 MBtu/h.
- PMFY Series—1-Way Airflow Ceiling Cassette—with capacities of 06/08/12/15 MBtu/h.
- PVFY Series—Vertical air handler (Concealed ducted)—with capacities of 12/18/24/30/36/42/48/54 MBtu/h
- PWFY Series—Commercial Hot Water Heat Pump Indoor Units—with capacities of 36/72 MBtu/h and 36 MBtu/h with booster unit.

#### Attachment C

##### Alternate Test Procedure for the WR2 and WY Series (Established in the WR2 and WY Waiver, Dec. 15, 2009)

(A) Mitsubishi shall be required to test its water-source WR2 and WY series models of its CITY MULTI VRFZ equipment according to those test procedures for commercial package air conditioners and heat pumps prescribed at 10 CFR Part 431.96, except that:

(i) Mitsubishi 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, Mitsubishi shall make representations concerning the WR2 and WY CITY MULTI equipment covered in this waiver according to the provisions of subparagraph (C) below.

(B) Tested combination. The term “tested combination” means a sample basic model comprised of units that are production units, or are representative of production units, of the basic model being tested. For the purposes of this waiver, the tested combination shall have the following features:

(1) The basic model of a variable refrigerant flow system used as a tested combination shall consist of an outdoor unit that is matched with between two and five indoor units.

(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 cooling capacity between 95 percent and 105 percent of the nominal cooling capacity of the outdoor unit;

(iii) Not, individually, have a nominal cooling capacity that is greater than 50 percent of the nominal cooling 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 WR2 and WY CITY MULTI VRFZ equipment, for compliance, marketing, or other purposes, Mitsubishi 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 WR2 and WY CITY MULTI VRFZ combinations tested in accordance with this alternate test procedure, Mitsubishi may make representations based on these test results.

(ii) For WR2 and WY CITY MULTI VRFZ combinations that are not tested, Mitsubishi may make representations based on the testing results for the tested combination and which are consistent with either of the two following methods:

(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.

(5) This waiver shall remain in effect from the date of issuance of this Decision and Order consistent with the provisions of 10 CFR 431.401(g).

(6) This waiver is conditioned upon the presumed validity of statements, representations, and documentary materials provided by the petitioner. This waiver may be revoked or modified at any time upon a determination that the factual basis underlying the petition is incorrect, or DOE determines that the results from the alternate test procedure are unrepresentative of the basic models’ true energy consumption characteristics.

##### Attachment D—Alternate Test Procedure for S&L Class Products (Established in S&L Class Waiver, Dec. 15, 2009)

(A) MEUS shall be required to test the products listed in paragraph (2) above according to the test procedure for central air conditioners and heat pumps prescribed by DOE at 10 CFR Part 431 (ARI 340/360–2004, incorporated by reference in 10 CFR

431.95(b)(2)), except that MEUS 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, MEUS shall make representations concerning the S&L Class products covered in this waiver according to the provisions of subparagraph (C) below.

(B) Tested combination. The term “tested combination” means a sample basic model comprised of units that are production units, or are representative of production units, of the basic model being tested. For the purposes of this waiver, the tested combination shall have the following features:

(i) The basic model of a variable refrigerant flow system used as a tested combination shall consist an outdoor unit (an outdoor unit can include multiple outdoor units that have been manifolded into a single refrigeration system, with a specific model number) that is matched with between 2 and 8 indoor units in total; for multi-split systems, each of these indoor units shall be designed for individual operation.

(ii) The indoor units shall—

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

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

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

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

(e) 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 S&L Class variable speed and variable refrigerant volume air-cooled multi-split heat pump and heat recovery system products, for compliance, marketing, or other purposes, Mitsubishi 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 S&L Class combinations using a single outdoor unit tested in accordance with this alternate test procedure, Mitsubishi may make representations based on these test results.

(ii) For S&L Class combinations using a single outdoor unit that have not been tested, Mitsubishi may make representations based

on the testing results for the tested combination and which are consistent with either of the two following methods:

(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.

(iii) For S&L Class combinations utilizing multiple outdoor units that have been tested in accordance with this alternate test procedure, MEUS may make representations based on those test results.

(iv) For S&L Class combinations utilizing multiple outdoor units that have not been tested, MEUS may make representations which are consistent with any of the three following methods:

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

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

(c) Representation of non-tested combinations based on the capacity weighted average of the efficiency ratings for the tested combinations for each of the individual outdoor units used in the system, as determined in accordance with the provisions of this alternate test procedure.

(4) This waiver shall remain in effect from the date of issuance of this Order consistent with the provisions of 10 CFR 431.401(g).

(5) This waiver is conditioned upon the presumed validity of statements, representations, and documentary materials provided by the petitioner. This waiver may be revoked or modified at any time upon a determination that the factual basis underlying the Petition for Waiver is incorrect, or DOE determines that the results from the alternate test procedure are unrepresentative of the basic models' true energy consumption characteristics.

[FR Doc. 2011-8145 Filed 4-5-11; 8:45 am]

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## DEPARTMENT OF ENERGY

### Office of Energy Efficiency and Renewable Energy

[Case No. CD-006]

#### Energy Conservation Program for Consumer Products: Publication of the Petition for Waiver and Notice of Granting the Application for Interim Waiver of BSH Home Appliances Corporation From the Department of Energy Residential Clothes Dryer 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 public comments.

**SUMMARY:** This notice announces receipt of and publishes the BSH Home Appliances Corporation (BSH) petition for waiver (hereafter, "petition") from specified portions of the U.S. Department of Energy (DOE) test procedure for determining the energy consumption of residential clothes dryers. The waiver request pertains to BSH's specified models of condensing residential clothes dryers. The existing test procedure does not apply to condensing clothes dryers. In addition, today's notice grants BSH an interim waiver from the DOE test procedure applicable to residential clothes dryers. DOE solicits comments, data, and information concerning BSH's petition.

**DATES:** DOE will accept comments, data, and information with respect to BSH's Petition until May 6, 2011.

**ADDRESSES:** You may submit comments, identified by case number CD-006, by any of the following methods:

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

- *E-mail:*

*AS Waiver\_Requests@ee.doe.gov*.

Include the case number [Case No. CD-005] in the subject line of the message.

- *Mail:* Ms. Brenda Edwards, U.S.

Department of Energy, Building Technologies Program, Mailstop EE-2J, Petition for Waiver Case No. CD-005, 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, 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.

*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 clothes dryers. Please call Ms. Brenda Edwards 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](mailto:Michael.Raymond@ee.doe.gov).

Ms. Jennifer Tiedeman, U.S.

Department of Energy, Office of the General Counsel, Mail Stop GC-71, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585-0103. Telephone: (202) 287-6111. E-mail: [Jennifer.Tiedeman@hq.doe.gov](mailto:Jennifer.Tiedeman@hq.doe.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background and Authority

Title III, Part B of the Energy Policy and Conservation Act of 1975 (EPCA), Public Law 94-163 (42 U.S.C. 6291-6309, as codified), established the Energy Conservation Program for Consumer Products Other Than Automobiles, a program covering most major household appliances, which includes the residential clothes dryers that are the focus of this notice.<sup>1</sup> Part B includes definitions, test procedures, labeling provisions, energy conservation standards, and the authority to require information and reports from manufacturers. Further, Part B authorizes the Secretary of Energy to prescribe test procedures that are reasonably designed to produce results which measure energy efficiency, energy use, or estimated operating costs, and that are not unduly burdensome to conduct. (42 U.S.C. 6293(b)(3)). The test procedure for clothes dryers is contained in 10 CFR part 430, subpart B, appendix D.

DOE's regulations set forth in 10 CFR 430.27 contain provisions that enable a person to seek a waiver from the test procedure requirements for covered consumer products. A waiver will be granted by the Assistant Secretary for Energy Efficiency and Renewable Energy (the Assistant Secretary) if it is determined that the basic model for which the petition for waiver was submitted contains one or more design characteristics that prevents testing of the basic model 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 characteristics as to provide materially inaccurate comparative data. 10 CFR 430.27(a)(1). Petitioners must include in their petition any alternate test procedures known to the petitioner evaluate the basic model in a manner representative of its energy consumption. 10 CFR

<sup>1</sup> For editorial reasons, upon codification in the U.S. Code, Part B was re-designated Part A.