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## DEPARTMENT OF ENERGY

### 10 CFR Parts 429 and 430

[Docket No. EERE-2016-BT-TP-0029]

RIN 1904-AD71

#### Energy Conservation Program: Test Procedures for Central Air Conditioners and Heat Pumps

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

**ACTION:** Final rule; delay of effective date.

**SUMMARY:** This document temporarily postpones the effective date of a recently published final rule amending the test procedures for central air conditioners and heat pumps.

**DATES:** Effective February 1, 2017, the effective date of the rule amending 10 CFR parts 429 and 430 published in the *Federal Register* at 82 FR 1426 on January 5, 2017, is delayed until March 21, 2017. The incorporation by reference of the publication listed in this rule is approved by the Director of the Federal Register as of March 21, 2017.

**FOR FURTHER INFORMATION CONTACT:** Ms. Ashley Armstrong, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE-2J, 1000 Independence Avenue SW., Washington, DC 20585-0121. Telephone: (202) 586-6590. Email: [Ashley.Armstrong@ee.doe.gov](mailto:Ashley.Armstrong@ee.doe.gov). Ms. Johanna Jochum, U.S. Department of Energy, Office of the General Counsel, 1000 Independence Ave. SW., Washington, DC 20585-0121. Phone: (202) 287-6307. Email: [Johanna.Jochum@hq.doe.gov](mailto:Johanna.Jochum@hq.doe.gov).

**SUPPLEMENTARY INFORMATION:** On January 20, 2017, the Assistant to the President and Chief of Staff (“Chief of Staff”) issued a memorandum, published in the *Federal Register* on

January 24, 2017 (82 FR 8346), outlining the President’s plan for managing the Federal regulatory process at the outset of the new Administration. In implementation of one of the measures directed by that memorandum, the United States Department of Energy (“DOE”) hereby temporarily postpones the effective date of its final rule amending the test procedures for central air conditioners and heat pumps (collectively, “CACs and HPs”) published in the *Federal Register* on January 5, 2017. See 82 FR 1426. The January 5 rule amends the test procedures and specific certification, compliance, and enforcement provisions related to CACs and HPs. Consistent with the memorandum, DOE is temporarily postponing the effective date of the final rule by 60 days, starting from January 20, 2017. The temporary 60-day delay in effective date is necessary to give DOE officials the opportunity for further review and consideration of new regulations, consistent with the Chief of Staff’s memorandum of January 20, 2017.

To the extent that 5 U.S.C. 553 applies to this action, it is exempt from notice and comment because it constitutes a rule of procedure under 5 U.S.C. 553(b)(A). Alternatively, DOE’s implementation of this action without opportunity for public comment, effective immediately upon publication in the *Federal Register*, is based on the good cause exceptions in 5 U.S.C. 553(b)(B) and 553(d)(3). Pursuant to 5 U.S.C. 553(b)(B), DOE has determined that good cause exists to forego the requirement to provide prior notice and an opportunity for public comment thereon for this rule as such procedures would be impracticable, unnecessary and contrary to the public interest. DOE is temporarily postponing for 60 days the effective date of this regulation pursuant to the previously-noted memorandum of the Chief of Staff and is exercising no discretion in implementing this specific provision of the memorandum. As a result, seeking public comment on this delay is unnecessary and contrary to the public interest. It is also impracticable given that the memorandum was issued on January 20, 2017, and the previous effective date of the rule at issue was February 6, 2017. For these same reasons DOE finds good cause to waive

the 30-day delay in effective date provided for in 5 U.S.C. 553(d).

Issued in Washington, DC, on January 26, 2017.

**John T. Lucas,**

*Acting General Counsel.*

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## DEPARTMENT OF ENERGY

### 10 CFR Parts 429 and 431

[Docket No. EERE-2014-BT-TP-0054]

RIN 1904-AD43

#### Energy Conservation Program: Test Procedures for Compressors

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

**ACTION:** Final rule; delay of effective date.

**SUMMARY:** This document temporarily postpones the effective date of a recently published final rule establishing test procedures for certain varieties of compressors.

**DATES:** Effective February 1, 2017, the effective date of the rule amending 10 CFR parts 429 and 431 published in the *Federal Register* at 82 FR 1052 on January 4, 2017, is delayed until March 21, 2017. The incorporation by reference of the publication listed in this rule is approved by the Director of the Federal Register as of March 21, 2017.

**FOR FURTHER INFORMATION CONTACT:** Ms. Ashley Armstrong, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE-2J, 1000 Independence Avenue SW., Washington, DC 20585-0121. Telephone: (202) 586-6590. Email: [Ashley.Armstrong@ee.doe.gov](mailto:Ashley.Armstrong@ee.doe.gov). Ms. Mary Greene, U.S. Department of Energy, Office of the General Counsel, 1000 Independence Ave. SW., Washington, DC 20585-0121. Phone: (202) 586-1817. Email: [Mary.Greene@hq.doe.gov](mailto:Mary.Greene@hq.doe.gov).

**SUPPLEMENTARY INFORMATION:** On January 20, 2017, the Assistant to the President and Chief of Staff (“Chief of Staff”) issued a memorandum, published in the *Federal Register* on January 24, 2017 (82 FR 8346), outlining the President’s plan for managing the Federal regulatory process at the outset

of the new Administration. In implementation of one of the measures directed by that memorandum, the United States Department of Energy (“DOE”) hereby temporarily postpones the effective date of its final rule amending the test procedures for compressors published in the **Federal Register** on January 4, 2017. See 82 FR 1052. The January 4 rule establishes a new test procedure for certain varieties of compressors. Consistent with the memorandum, DOE is temporarily postponing the effective date of the final rule by 60 days, starting from January 20, 2017. The temporary 60-day delay in effective date is necessary to give DOE officials the opportunity for further review and consideration of new regulations, consistent with the Chief of Staff’s memorandum of January 20, 2017.

To the extent that 5 U.S.C. 553 applies to this action, it is exempt from notice and comment because it constitutes a rule of procedure under 5 U.S.C. 553(b)(A). Alternatively, DOE’s implementation of this action without opportunity for public comment, effective immediately upon publication in the **Federal Register**, is based on the good cause exceptions in 5 U.S.C. 553(b)(B) and 553(d)(3). Pursuant to 5 U.S.C. 553(b)(B), DOE has determined that good cause exists to forego the requirement to provide prior notice and an opportunity for public comment thereon for this rule as such procedures would be impracticable, unnecessary and contrary to the public interest. DOE is temporarily postponing for 60 days the effective date of this regulation pursuant to the previously-noted memorandum of the Chief of Staff and is exercising no discretion in implementing this specific provision of the memorandum. As a result, seeking public comment on this delay is unnecessary and contrary to the public interest. It is also impracticable given that the memorandum was issued on January 20, 2017, and the previous effective date of the rule at issue was February 3, 2017. For these same reasons DOE finds good cause to waive the 30-day delay in effective date provided for in 5 U.S.C. 553(d).

Issued in Washington, DC, on January 26, 2017.

**John T. Lucas,**

*Acting General Counsel.*

[FR Doc. 2017-02134 Filed 2-1-17; 8:45 am]

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## FEDERAL ELECTION COMMISSION

### 11 CFR Part 111

[Notice 2017-01]

#### Civil Monetary Penalties Annual Inflation Adjustments

**AGENCY:** Federal Election Commission.

**ACTION:** Final rules.

**SUMMARY:** As required by the Federal Civil Penalties Inflation Adjustment Act of 1990, the Federal Election Commission is adjusting for inflation the civil monetary penalties established under the Federal Election Campaign Act, the Presidential Election Campaign Fund Act, and the Presidential Primary Matching Payment Account Act. The civil monetary penalties being adjusted are those negotiated by the Commission or imposed by a court for certain statutory violations, and those imposed by the Commission for late filing of or failure to file certain reports required by the Federal Election Campaign Act. The adjusted civil monetary penalties are calculated according to a statutory formula and the adjusted amounts will apply to penalties assessed after the effective date of these rules.

**DATES:** The final rules are effective on February 2, 2017.

**FOR FURTHER INFORMATION CONTACT:** Mr. Neven F. Stipanovic, Acting Assistant General Counsel, or Mr. Eugene J. Lynch, Paralegal, Office of General Counsel, 999 E Street NW., Washington, DC 20463, (202) 694-1650 or (800) 424-9530.

**SUPPLEMENTARY INFORMATION:** The Federal Civil Penalties Inflation Adjustment Act of 1990 (the “Inflation Adjustment Act”),<sup>1</sup> as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (the “2015 Act”),<sup>2</sup> requires federal agencies, including the Commission, to adjust for inflation the civil monetary penalties within their jurisdiction according to prescribed formulas. A civil monetary penalty is “any penalty, fine, or other sanction” that (1) “is for a specific amount” or “has a maximum amount” under federal law; and (2) that a federal agency assesses or enforces “pursuant to an administrative proceeding or a civil action” in federal court.<sup>3</sup> Under the Federal Election

Campaign Act, 52 U.S.C. 30101-46 (“FECA”), the Commission may seek and assess civil monetary penalties for violations of FECA, the Presidential Election Campaign Fund Act, 26 U.S.C. 9001-13, and the Presidential Primary Matching Payment Account Act, 26 U.S.C. 9031-42.

As required by the 2015 Act,<sup>4</sup> the Commission recently instituted a one-time “catch-up” inflation adjustment to its civil monetary penalties. Civil Monetary Penalties Inflation Adjustments, 81 FR 41196 (June 24, 2016). Starting in 2017, the Inflation Adjustment Act requires federal agencies to adjust their civil penalties annually, and the adjustments must take effect no later than January 15 of every year.<sup>5</sup> Pursuant to guidance issued by the Office of Management and Budget,<sup>6</sup> the Commission is now adjusting its civil monetary penalties for 2017.<sup>7</sup>

The Commission must adjust for inflation its civil monetary penalties “notwithstanding Section 553” of the Administrative Procedures Act (“APA”).<sup>8</sup> Thus, the APA’s notice-and-comment and delayed effective date requirements in 5 U.S.C. 553(b)-(d) do not apply because Congress has specifically exempted agencies from these requirements.<sup>9</sup>

Furthermore, because the inflation adjustments made through these final rules are required by Congress and involve no Commission discretion or policy judgments, these rules do not need to be submitted to the Speaker of the House of Representatives or the President of the Senate under the Congressional Review Act, 5 U.S.C. 801 *et seq.* Moreover, because the APA’s notice-and-comment procedures do not apply to these final rules, the Commission is not required to conduct a regulatory flexibility analysis under 5 U.S.C. 603 or 604. *See* 5 U.S.C. 601(2), 604(a). Nor is the Commission required to submit these revisions for congressional review under FECA. *See* 5 U.S.C. 30111(d)(1), (4) (providing for

<sup>4</sup> Inflation Adjustment Act, section 4(b)(1).

<sup>5</sup> Inflation Adjustment Act, section 4(a).

<sup>6</sup> *See* Inflation Adjustment Act section 7(a) (requiring OMB to “issue guidance to agencies on implementing the inflation adjustments required under this Act”); *see also* Memorandum from Shaun Donovan, Director, Office of Management and Budget, to Heads of Executive Departments and Agencies, M-17-11 (Dec. 16, 2016), <https://www.whitehouse.gov/sites/default/files/omb/memoranda/2016/m-16-06.pdf> (“OMB Memorandum”).

<sup>7</sup> Inflation Adjustment Act, section 5.

<sup>8</sup> Inflation Adjustment Act, section 4(b)(2).

<sup>9</sup> *See, e.g., Asiana Airlines v. FAA*, 134 F.3d 393, 396-99 (D.C. Cir. 1998) (finding APA “notice and comment” requirement not applicable where Congress clearly expressed intent to depart from normal APA procedures).

<sup>1</sup> Public Law 101-410, 104 Stat. 890 (codified at 28 U.S.C. 2461 note), amended by Debt Collection Improvement Act of 1996, Public Law 104-134, sec. 31001(s)(1), 110 Stat. 1321, 1373; Federal Reports Elimination Act of 1998, Public Law 105-362, sec. 1301, 112 Stat. 3280.

<sup>2</sup> Public Law 114-74, section 701, 129 Stat. 584, 599.

<sup>3</sup> Inflation Adjustment Act, section 3(2).