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**[6450-01-P]**

**DEPARTMENT OF ENERGY**

**10 CFR Part 430**

**[Docket Number EERE–2013–BT–NOA–0047]**

**RIN: 1904-AD08**

**Energy Conservation Program: Energy Conservation Standards for Certain Consumer Products**

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

**ACTION:** Final rule; technical amendment.

**SUMMARY:** This final rule incorporates certain changes to the Code of Federal Regulations addressed in a final rule published on October 23, 2013. That final rule adopted changes to definitions and energy conservation standards enacted through the American Energy Manufacturing Technical Corrections Act, among which were a revised definition and revised energy conservation standards for small duct high velocity central air conditioners and heat pumps. However, the final rule erroneously omitted the changes to the regulatory text. This final rule incorporates those changes.

**DATES:** *Effective Date:* [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:**

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**I. Background**

The American Energy Manufacturing Technical Corrections Act (AEMTCA; H.R. 6582), Pub. L. 112–210, was signed into law on December 18, 2012. Among its provisions are amendments to Part B<sup>1</sup> of Title III of the Energy Policy and Conservation Act of 1975 (EPCA or “the Act”) (42 U.S.C. 6291-6309, as codified), which provides for an energy conservation program for consumer products other than automobiles. Section 5 of the AEMTCA added to EPCA a definition and standards specifically for small duct high velocity systems (SDHVs). (42 U.S.C. 6295(d)(4)) The new EPCA definition (42 U.S.C. 6295(d)(4)(A)(i)) repeats verbatim the wording of DOE’s definition of SDHV, with one minor editorial change. In a final rule published on October 23, 2013, DOE

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

explained that it was incorporating this change into its definition of SDHV in 10 CFR 430.2. 78 FR 62988, 62989-62990. The AEMTCA amendments also established that SDHV units manufactured on or after January 23, 2006 and before January 1, 2015, must perform at or above 11 SEER and 6.8 HSP and SDHV units manufactured on January 1, 2015, and thereafter must perform at or above 12 SEER and 7.2 HSP. In the October 23, 2013 rule, DOE explained that it was replacing its current standards for SDHVs with these new EPCA standards. However, the final rule erroneously omitted the amended regulatory text for the SDHV definition and standards.

## **II. Summary of Today's Action**

By today's action, DOE is including in the Code of Federal Regulations (CFR) the new and modified standards and definitions applicable to SDHVs prescribed by the AEMTCA. This is a purely technical amendment, and at this time DOE is not exercising any of the authority that Congress has provided in the AEMTCA for the Secretary of Energy to revise definitions and energy conservation standards.

## **III. Final Action**

DOE has determined, pursuant to 5 U.S.C. 553(b)(B), that prior notice and an opportunity for public comment on this final rule are unnecessary. DOE is merely placing in the CFR text prescribed by the Congress in the AEMTCA and making other limited revisions to its regulations as necessitated by this text. DOE is not exercising any of the

discretionary authority that the Congress has provided to the Secretary of Energy in the AEMTCA. DOE, therefore, finds that good cause exists to waive prior notice and an opportunity to comment for this rulemaking. For the same reasons, DOE, pursuant to 5 U.S.C. 553(d)(3), finds that good cause exists for making this final rule effective upon publication in the **Federal Register**.

#### **IV. Procedural Issues and Regulatory Review**

##### A. Review Under Executive Orders 12866 and 13563

Today's final rule is not a "significant regulatory action" under section 3(f)(1) of Executive Order 12866 and the principles reaffirmed in Executive Order 13563. Accordingly, today's action was neither subject to review by the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB).

##### B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by Executive Order 13272, "Proper Consideration of Small Entities in Agency Rulemaking," 67 FR 53461 (August 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel's website

<http://energy.gov/gc/office-general-counsel>). Because this is a technical amendment for which a general notice of proposed rulemaking is not required, the analytical requirements of the Regulatory Flexibility Act do not apply to this rulemaking.

### **III. Approval of the Office of the Secretary**

The Secretary of Energy has approved publication of today's final rule.

#### **List of Subjects**

##### 10 CFR Part 430

Administrative practice and procedure, Energy conservation, Household appliances.

Issued in Washington, DC, on November 25, 2013.

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David T. Danielson  
Assistant Secretary  
Energy Efficiency and Renewable Energy

For the reasons set forth in the preamble, DOE hereby amends part 430 of chapter II, subchapter D, of title 10 of the Code of Federal Regulations, as set forth below:

**PART 430 - ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS**

1. The authority citation for Part 430 continues to read as follows:

Authority: 42 U.S.C. 6291-6309; 28 U.S.C. 2461 note.

2. Section 430.2 is amended by revising the definition of “Small duct, high velocity system” to read as follows:

**§430.2 Definitions.**

\* \* \* \* \*

Small duct, high velocity system means a heating and cooling product that contains a blower and indoor coil combination that—

- (1) Is designed for, and produces, at least 1.2 inches of external static pressure when operated at the certified air volume rate of 220-350 CFM per rated ton of cooling; and
- (2) When applied in the field, uses high velocity room outlets generally greater than 1,000 fpm that have less than 6.0 square inches of free area.

\* \* \* \* \*

**§430.32 [Amended]**

3. Section 430.32 is amended:

a. In the table for paragraph (c)(2):

1. First column, by removing the footnote designation from rows (v)(A) and (v)(B) and adding it after “class” in the heading of the first column;

2. Row (vi) in the second column, by removing “13” and adding in its place, “11”, and in the third column by removing “7.7” and adding in its place, “6.8”;

b. In the table for paragraph (c)(3), row (v) in the second column, by removing “13” and adding in its place, “12”, and in the third column by removing “7.7” and adding in its place, “7.2”.

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