[6450-01-P]

DEPARTMENT OF ENERGY

[Case No. 2017-008]

Notice of Petition for Waiver of National Comfort Products, Inc. (NCP) from the Department of Energy Central Air Conditioners and Heat Pumps Test Procedure, and Notice of Grant of Interim Waiver

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

ACTION: Notice of petition for waiver, grant of an interim waiver, and request for comments.

SUMMARY: This notice announces receipt of and publishes a petition for waiver from NCP seeking an exemption from the U.S. Department of Energy (DOE) test procedure for determining the efficiency of central air conditioners and heat pumps. NCP seeks to use an alternate test procedure to address issues involved in testing certain basic models identified in its petition. According to NCP, the basic models of space constrained central air conditioner and heat pump units listed in its petition are designed and intended to be sold exclusively with NCP's NCPAH-A series or other blower-coil indoor units with electronically commutated ("ECM") motors. These efficient blower-coil indoor units operate at much lower wattage than the default required by the DOE test procedure. As such, the current DOE test procedure does not result in representative ratings for these basic models. NCP seeks to use an alternate test procedure to test and rate their basic models paired only with air handler indoor units (i.e., blower coil indoor units). This notice also announces that DOE grants NCP an interim waiver from the DOE central air conditioners and heat pumps test procedure for its specified basic models, subject to use of the alternative test procedure as set forth in the Order. DOE solicits comments, data, and information concerning NCP's petition and its suggested alternate test procedure.

DATES: DOE will accept comments, data, and information with respect to the NCP Petition until **[*INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER*]**.

ADDRESSES: You may submit comments, identified by case number "2017-008" and Docket number "EERE-2017-BT-WAV-0030," by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *E-mail*: *NCP2017WAV0030@EE.DOE.Gov* Include the case number [Case No. 2017-008] in the subject line of the message. Submit electronic comments in WordPerfect, Microsoft Word, PDF, or ASCII file format, and avoid the use of special characters or any form of encryption.
- *Postal Mail*: Ms. Lucy deButts, U.S. Department of Energy, Building Technologies Office, Mailstop EE-5B, Petition for Waiver Case No. 2017-008, 1000 Independence Avenue, SW., Washington, DC 20585-0121. Telephone: (202) 287-1604. If possible, please submit all items on a compact disc (CD), in which case it is not necessary to include printed copies.
- *Hand Delivery/Courier*: Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, 950 L'Enfant Plaza, SW., 6th Floor, Washington, DC, 20024. Telephone: (202) 287- 1445. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

Docket: The docket, which includes *Federal Register* notices, comments, and other supporting documents/materials, is available for review at *http://www.regulations.gov*. All

documents in the docket are listed in the *http://www.regulations.gov* index. However, some documents listed in the index, such as those containing information that is exempt from public disclosure, may not be publicly available.

The docket Web page can be found *https://www.regulations.gov/docket?D=EERE-2017-BT-WAV-0030*. The docket Web page will contain simple instruction on how to access all documents, including public comments, in the docket.

FOR FURTHER INFORMATION CONTACT: Ms. Lucy deButts, U.S. Department of Energy, Building Technologies Program, Mail Stop EE-2J, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585-0121. Telephone: (202) 287-1604. E-mail: *AS_Waiver_Requests@ee.doe.gov*.

Mr. Pete Cochran, U.S. Department of Energy, Office of the General Counsel, Mail Stop GC-33, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585-0103. Telephone: (202) 586-9496. E-mail: *Peter.Cochran@hq.doe.gov*.

SUPPLEMENTARY INFORMATION:

I. Background and Authority

Title III, Part B[1] 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, which includes central air conditioners and heat

[1] For editorial reasons, upon codification in the U.S. Code, Part B was redesignated as Part A.

pumps.[2] Part B includes definitions, test procedures, labeling provisions, energy conservation standards, and the authority to require information and reports from manufacturers. Further, Part B requires the Secretary of Energy to prescribe test procedures that are reasonably designed to produce results that measure energy efficiency, energy use, or estimated operating costs during a representative average-use cycle, and that are not unduly burdensome to conduct. (42 U.S.C. 6293(b)(3)) The test procedure for central air conditioners and heat pumps is contained in 10 CFR part 430, subpart B, appendix M (referred to in this notice as "appendix M").

DOE's regulations set forth at 10 CFR 430.27 contain provisions that allow a person to seek a waiver from the test procedure requirements for a particular basic model of a covered product when the petitioner's basic model for which the petition for waiver was submitted contains one or more design characteristics that either (1) prevent testing according to the prescribed test procedure, or (2) cause the prescribed test procedures to 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). A petitioner must include in its petition any alternate test procedures known to the petitioner to evaluate the basic model in a manner representative of its energy consumption. 10 CFR 430.27(b)(1)(iii).

DOE may grant a waiver subject to conditions, including adherence to alternate test procedures. 10 CFR 430.27(f)(2). As soon as practicable after the granting of any waiver, DOE will publish in the *Federal Register* a notice of proposed rulemaking to amend its regulations so as to eliminate any need for the continuation of such waiver. As soon thereafter as practicable, DOE will publish in the *Federal Register* a final rule. 10 CFR 430.27(l).

[2] All references to EPCA in this document refer to the statute as amended through the Energy Efficiency Improvement Act of 2015 (EEIA), Public Law 114-11 (April 30, 2015).

The waiver process also allows DOE to grant an interim waiver if it appears likely that the petition for waiver will be granted and/or if DOE determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the petition for waiver. 10 CFR 430.27(e)(2). Within one year of issuance of an interim waiver, DOE will either: (i) publish in the *Federal Register* a determination on the petition for waiver; or (ii) publish in the *Federal Register* a new or amended test procedure that addresses the issues presented in the waiver. 10 CFR 430.27(h)(1). When DOE amends the test procedure to address the issues presented in a waiver, the waiver will automatically terminate on the date on which use of that test procedure is required to demonstrate compliance. 10 CFR 430.27(h)(2).

II. NCP's Petition for Waiver of Test Procedure and Application for Interim Waiver

On March 20, 2017, NCP filed a petition for waiver and an application for interim waiver from the CAC and HP test procedure set forth in 10 CFR part 430, subpart B, appendix M. According to NCP, basic models of space constrained central air conditioner and heat pump outdoor units listed in its petition[3] are designed and intended to be sold with NCP's NCPAH-A series or other blower-coil indoor units with electronically commutated ("ECM") motors. These efficient blower-coil indoor units operate at much lower wattage than the default required by the DOE test procedure. As such, the current DOE test procedure does not result in a representative rating for these basic models. NCP seeks to use an alternate test procedure to test and rate using

[3] The specific basic models for which the petition applies are central air conditioner basic models NCPE-418-1010, NCPE-418-3010, NCPE-418-4010, NCPE-418-5010, NCPE-424-1010, NCPE-424-3010, NCPE-424-4010, NCPE-424-5010, NCPE-430-1010, NCPE-430-3010, NCPE-430-4010, NCPE-430-5010. These basic model names were provided by NCP in its March 2017 petition.

their space constrained central air conditioner and heat pump basic models paired only with blower-coil indoor units.

NCP also requests an interim waiver from the existing DOE test procedure. An interim waiver may be granted if it appears likely that the petition for waiver will be granted, and/or if DOE determines that it would be desirable for public policy reasons to grant immediate relief pending a determination of the petition for waiver. See 10 CFR 430.27(e)(2).

III. Requested Alternate Test Procedure

EPCA requires that manufacturers use DOE test procedures to make representations about the energy consumption and energy consumption costs of products covered by the statute. (42 U.S.C. 6293(c)) Consistent representations are important for manufacturers to use in making representations about the energy efficiency of their products and to demonstrate compliance with applicable DOE energy conservation standards. Pursuant to its regulations applicable to waivers and interim waivers from applicable test procedures at 10 CFR 430.27, and after consideration of public comments on the petition, DOE will consider setting an alternate test procedure for the equipment identified by NCP in a subsequent Decision and Order.

As an alternate test procedure, NCP proposes that the basic models listed in the petition be tested according to the test procedure for central air conditioners and heat pumps prescribed by DOE at 10 CFR part 430, subpart B, appendix M , as applicable, except for the requirement under 10 CFR 429.16 that represented values for each model of outdoor unit be determined based on testing with a model of a coil-only indoor unit that is the least efficient indoor unit distributed in commerce with that particular outdoor unit. Instead, NCP requests that the

specified basic models be tested and representations be determined by pairing the models only with blower-coil indoor units.

IV. Summary of Grant of an Interim Waiver

On May 30, 2017, NCP submitted supplemental materials to their original petition consisting of public-facing materials (e.g., marketing materials, product specification sheets, and installation manuals) that include language consistent with their assertion that the basic models listed in its petition are distributed to be installed exclusively with blower-coil indoor units that incorporate high-efficiency fan motors.

In addition to the material submitted by NCP, DOE conducted a review of NCP's other public-facing materials including websites, marketing materials, product spec sheets, labels, installation manuals, other consumer facing disclosures, etc. to confirm that these materials support NCP's assertions set forth in the petition about how they distribute the specified basic models in commerce. The public-facing materials that DOE found state that these basic models are compatible with NCP air handlers or certain other air handlers with ECM motors (combinations that are rated in the DOE Compliance Certification Management System (CCMS) database) and that any combinations not rated in the DOE CCMS database will require factory testing and listing with DOE. DOE's review also indicates that NCP does not market the basic models for sale with indoor units that do not have electronically commutated fan motors. All materials reviewed by DOE can be found in the docket. DOE understands from NCP's petition that, absent an interim waiver, NCP's specified models cannot be tested and rated for energy consumption on a basis representative of their true energy consumption characteristics. DOE has reviewed the alternate test procedure suggested by NCP and concludes that it will allow for the accurate measurement of the efficiency of these specified models, while alleviating the testing

problems associated with NCP's implementation of CAC and HP testing. DOE has determined that NCP's petition for waiver will likely be granted and that it is desirable for public policy reasons to grant NCP immediate relief pending a determination on the petition for waiver.

For the reasons stated above, DOE has granted NCP's application for interim waiver for its specified basic models of space constrained central air conditioners and heat pumps. The substance of DOE's Interim Waiver Order is summarized below.

Therefore, DOE has issued an **Order**, stating:

(1) NCP must test and rate the CAC and HP basic models listed in paragraph (A) with the alternate test procedure set forth in paragraph (2).

(A) NCPE-418-1010, NCPE-418-3010, NCPE-418-4010, NCPE-418-5010, NCPE-424-1010, NCPE-424-3010, NCPE-424-4010, NCPE-424-5010, NCPE-430-1010, NCPE-430-3010, NCPE-430-4010, NCPE-430-5010

(2) The applicable method of test for the NCP basic models listed in subparagraph (1)(A) is the test procedure for CAC and HP prescribed by DOE at 10 CFR part 430, subpart B, appendix M, except the determination of represented value requirements and units required for test per 10 CFR 429.16(a)(1), (b)(2) and (b)(2)(i) shall be as detailed below. All other requirements of 10 CFR part 429.16 remain applicable.

In 429.16(a), *Determination of Represented Value*:

(1) Required represented values for single-split system space-constrained AC with single-stage or two-stage compressor. Determine the represented values (including SEER, EER,

HSPF, SEER2, EER2, HSPF2, PW,OFF, cooling capacity, and heating capacity, as applicable) for the individual models/combinations (or "tested combinations") specified in the following table.

Category	***Equipment subcategory***	***Required represented values***
Outdoor Unit and Indoor Unit (Distributed in Commerce by OUM)	*Single-Split System Space-Constrained AC with Single-Stage or Two-Stage Compressor*	*Every individual combination distributed in commerce, including all coil-only and blower coil combinations. For each model of outdoor unit, this must include the least efficient combination distributed in commerce with the particular model of outdoor unit.*

In 429.16(b), *Units tested:*

(2) Individual model/combination selection for testing of single-split system space-constrained AC with single-stage or two-stage compressor. (i) The table identifies the minimum testing requirements for each basic model that includes multiple individual models/combinations; if a basic model spans multiple categories or subcategories listed in the table, multiple testing requirements apply. For each basic model that includes only one individual model/combination, test that individual model/combination.

Category	Equipment Subcategory	Must Test:	With:
Outdoor Unit and Indoor Unit (Distributed in Commerce by an OUM)	Single-Split System Space-Constrained AC with a Single-Stage or Two-Stage Compressor	The model of outdoor unit	A model of indoor unit

(3) *Representations*. NCP is permitted to make representations about the efficiency of basic models that meet the requirements of paragraph (1) for compliance, marketing, or other purposes only to the extent that the basic model has been tested in accordance with the provisions set forth

above and such representations fairly disclose the results of such testing in accordance with 10 CFR 429.16 and 10 CFR part 430, subpart B, appendix M.

(4) This interim waiver shall remain in effect consistent with the provisions of 10 CFR 430.27(h) and (k).

(5) This interim waiver is issued to NCP on the condition that: (1) The statements, representations, test data, and documentary materials provided by the petitioner are valid, (2) NCP continues to distribute the specified basic models for exclusive installation with air-handler units that include electronically commutated motors, (3) All public-facing materials, including websites, marketing materials, product spec sheets, labels, nameplates, etc., make no representations that these basic models be installed in any other way; and (4) All public-facing materials state "Please consult the DOE CCMS data base [link to DOE CCMS database] for a list of rated combinations of indoor and outdoor units. Combinations of outdoor and indoor units that are not rated will require factory testing and listing with DOE. Please consult the factory." DOE may revoke or modify this waiver at any time if it determines the factual basis underlying the petition for waiver is incorrect, the above listed conditions are not met, or the results from the alternate test procedure are unrepresentative of the basic model's true energy consumption characteristics.

(6) Granting of this interim waiver does not release NCP from the certification requirements set forth at 10 CFR part 429, other than those explicitly stated in paragraph (2).

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. NCP may submit a new or amended petition for waiver and request for grant of interim waiver, as appropriate, for additional models of central air conditioners and heat pumps. Alternatively, if

appropriate, NCP may request that this interim waiver (or subsequent waiver, if applicable) be extended to additional basic models employing the same technology as basic models specifically set out in this petition (see 10 CFR 430.27(g)).

IV. Summary and Request for Comments

Through this notice, DOE announces receipt of NCP's petition for waiver from the DOE test procedure for certain basic models and announces DOE's decision to grant NCP an interim waiver from the test procedure for the basic models listed in NCP's petition. DOE is publishing NCP's petition for waiver in its entirety, pursuant to 10 CFR 430.27(b)(1)(iv). The petition contains no confidential information. The petition includes a suggested alternate test procedure, as specified in section III of this notice, to determine the energy consumption of NCP's specified space constrained central air conditioner and heat pump basic models. DOE may consider including the alternate procedure specified in the Order in a subsequent Decision and Order.

DOE invites all interested parties to submit in writing by [**INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER***], comments and information on all aspects of the petition, including the suggested alternate test procedure and calculation and rating methodology. DOE also seeks comment and data on NCP's assertion that it exclusively distributes the space constrained air conditioner and heat pump basic models as blower-coil installations. Pursuant to 10 CFR 430.27(d), any person submitting written comments to DOE must also send a copy of such comments to the petitioner. The contact information for the petitioner is Jean-Cyril Walker, Keller and Heckman LLP, 1001 G Street, N.W., Suite 500 West, Washington, D.C. 20001.

Submitting comments via *http://www.regulations.gov*. The *http://www.regulations.gov* web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to *http://www.regulations.gov* information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (CBI)). Comments submitted through *http://www.regulations.gov* cannot be claimed as CBI. Comments received through the website will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

DOE processes submissions made through *http://www.regulations.gov* before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable

for up to several weeks. Please keep the comment tracking number that *http://www.regulations.gov* provides after you have successfully uploaded your comment.

Submitting comments via email, hand delivery, or mail. Comments and documents submitted via email, hand delivery, or mail also will be posted to *http://www.regulations.gov*. If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information on a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via mail or hand delivery, please provide all items on a CD, if feasible. It is not necessary to submit printed copies. No facsimiles (faxes) will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, written in English and free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. 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 via email, postal mail, or hand delivery two well-marked copies: one copy of the document marked confidential including all the information believed to be confidential, and one copy of the document marked "non-confidential" with the information believed to be confidential deleted. Submit these documents via email or on a CD, if feasible. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

Factors of interest to DOE when evaluating requests to treat submitted information as confidential include (1) a description of the items, (2) whether and why such items are customarily treated as confidential within the industry, (3) whether the information is generally known by or available from other sources, (4) whether the information has previously been made available to others without obligation concerning its confidentiality, (5) an explanation of the competitive injury to the submitting person which would result from public disclosure, (6) when such information might lose its confidential character due to the passage of time, and (7) why disclosure of the information would be contrary to the public interest.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

Signed in Washington, DC, on May 17, 2018.

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Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency , Energy Efficiency and Renewable Energy.

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March 20, 2017

Via Electronic Mail

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AS_Waiver_Requests@ee.doe.gov

Re: PUBLIC Petition for Waiver and Application for Interim Waiver from the Department of Energy Uniform Test Method for Measuring the Energy Consumption of Central Air Conditioners and Heat Pumps by National Comfort Products, Inc.

On behalf of our client, National Comfort Products, Inc. ("NCP"), we respectfully submit this Petition for Waiver and Application for Interim Waiver requesting exemption by the Department of Energy ("DOE" or "Department") from certain parts of the test procedure for measuring the energy consumption of residential central air conditioners under 10 C.F.R. § 430.27. The requested waiver will allow NCP to test its line of space-constrained, through-the-wall ("TTW") condensing units to the amended procedure set out by this Petition.

I. Petition for Waiver

NCP seeks the Department's approval of this proposed amendment to the central air conditioner test procedure to be assured of properly calculating the energy consumption and rating of its space-constrained, TTW products. At issue are NCP's NCPE Series of TTW condensing units. The products are available in sizes ranging from 1.5 to 2.5 tons, are charged with R-410A, and use a high efficiency compressor. These products are used exclusively in multi-family housing and are matched with air handlers. The combined condensing unit and air handler meet or exceed the applicable minimum federal energy efficiency standards.

Space-constrained condensing units are smaller than conventional pad mounted condensing units. They are sized to fit into the smaller wall openings specified for building constructed prior to the year 2000. The small unit size results in a smaller condensing surface and airflow. NCP uses the most efficient compressor technology available in all its models. The NCPE series is designed and intended to be sold with NCP's NCPAH-A series or other air handlers

with electronically commutated ("ECM") motors.

These efficient air handlers operate at much lower wattage than default and allow NCP to overcome the limitations of the space constrained condensing unit. Thus, the Company can rate these products at or above the Federal minimum energy efficiency standard. When tested with coil only indoor units, however, the space constrained condensing units are unable to meet the minimum efficiency standard of 12 SEER, or achieve a coil only rating that meets the minimum efficiency for Space Constrained products.

Pursuant to the Department regulations at 10 C.F.R. § 430.27, any person may submit a petition to waive the requirements of 10 C.F.R. § 430.23 or the applicable test procedure for a basic model on grounds that:

…the basic model contains one or more design characteristics which either prevent testing of the basic model according to the prescribed test procedures or cause the prescribed test procedures to evaluate the basic model in a manner so unrepresentative of its true energy and/or water consumption characteristics as to provide materially inaccurate comparative data.[1]

NCP respectfully submits that sufficient grounds exist for DOE to grant this Petition on both points. First, the test procedure does not allow the energy used by NCP's condensing units to be accurately calculated. NCP lists its space-constrained condensing units matched only with ECM driven air handlers that meet the Federal Minimum Efficiency requirements.

See Exhibit 1. In addition, the Company only advertises or sells the product, to be matched with air handlers, not coil only units. *See* Exhibit 2. Yet, the test procedure requires the model to be tested with coil only indoor units.

Second, testing NCPE condensing units according to the test procedure would provide results that do not accurately measure the energy used when installed. As noted above, NCPE outdoor condensing units failed to meet the applicable energy efficiency setting when paired with a coil only indoor unit. *See* Confidential Exhibit 3. Condensing units that are limited in size, (of a type that was available for purchase in the United States as of December 1, 2000) are still a viable solution for the Multi-Family Market. Indeed, when combined with an air handler, the NCP products consistently meet or exceed the applicable energy efficiency standards. *See* Confidential Exhibit 4.

A. The Condensing Unit Energy Test Procedure

Generally, 10 C.F.R. § 430.23(m) directs that the energy efficiency or other useful performance measures of central air conditioners and heat pumps must be determined using the test procedure at Appendix M to 10 C.F.R. Part 430, subpart B. The test procedure in turn refers to the requirements of 10 C.F.R. § 429.16, which specifies that each model of a space constrained condensing unit must be tested with the model of coil-only indoor unit that is the

[1] 10 C.F.R. § 430.27(l).

least efficient indoor unit distributed in commerce with that particular condensing unit.[2] This mandatory test configuration is inappropriate for the NCPE series products, however, because they are sold or installed exclusively with air handlers with ECM motors. In addition, the default fan power value required to be used when conducting such test is 365 Watts (W) per 1,000 cubic feet per minute of standard air (scfm), and the cooling capacity must be adjusted (lowered) 1250 (btu) per 1,000 scfm. In contrast, NCP's products operate at a range of 580 scfm to 950 scfm.

The product's lower BTU and the higher indoor wattage required by the test procedure will not allow these products to meet the minimum efficiency standard of 12 SEER, or achieve a coil only rating that meets the minimum efficiency for Space Constrained products.

B. NCP's Proposed Modifications to the Test Procedure

In adopting the test procedure and sampling plan requirements of Section 429.16, the DOE assumed that space-constrained condensing units most commonly are sold or installed with coil-only indoor units.[3] This is not the case with NCP's NCPE series. Accordingly, with this Petition, NCP requests that DOE grant a test procedure waiver that will allow the Company to test its condensing units with air handlers. Such an approach reflects the actual use of NCPE condensing units. The NCP models subject to this Petition are:

NCPE-418-1010
NCPE-424-1010
NCPE-430-1010
NCPE-418-3010
NCPE-424-3010
NCPE-430-3010
NCPE-418-4010
NCPE-424-4010
NCPE-430-4010
NCPE-418-5010
NCPE-424-5010
NCPE-430-5010

NCP proposes to run the test procedure exactly as set out in 10 C.F.R. Part 430, subpart B. The only difference is that NCP would run the test only with air handlers. As noted above, when tested with air handlers, the NCP products will consistently meet or exceed the applicable energy efficiency standards. Based on the preceding discussion, NCP requests that DOE grant a test procedure waiver to allow testing of its NCPE condensing units with air handlers. Failure to grant the waiver would result in severe economic hardship to NCP. [redacted]

[2] *Energy Conservation Program: Test Procedures for Central Air Conditioners and Heat Pumps* 81 Fed. Reg. 36,992, 37,001-37,003 (June 8, 2016). This requirement was amended by *Energy Conservation Program: Test Procedures for Central Air Conditioners and Heat Pumps*, 82 Fed. Reg. 1,426 (January 5, 2017); but postponed until March 21, 2017, pending further review and consideration by Department officials. *See Energy Conservation Program: Test Procedures for Central Air Conditioners and Heat Pumps*, 82 Fed. Reg. 8,985 (February 2, 2017). This Petition for Waiver and Application for Interim Waiver nevertheless remains relevant because the January 5, 2017 amendment does not markedly change the test configuration mandated by 10 C.F.R. § 429.16.

[3] *Id.*

II. Application for Interim Waiver

The DOE may grant an Interim Waiver if the applicant can "demonstrate likely success of the petition for waiver and address what economic hardship and/or competitive disadvantage is likely to result absent a favorable determination on the petition for interim waiver."[4] As noted above, [redacted] absent a favorable determination [redacted]

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NCP submits that it is also likely to succeed on the merits, as it has amply demonstrated above that the units are exclusively sold or installed for use with air handlers that are equipped with ECM motors. In addition, the alternative test procedure proposed by NCP is not radically different from the current test procedure, which recognizes products such as ductless mini-splits, that are never distributed as coil-only products.[5] Accordingly, NCP respectfully submits that sufficient grounds exist for the Department to grant its Application for Interim Waiver.

III. Conclusion

NCP urges the DOE to grant its Petition for Waiver and Application for Interim Waiver to test its new NCPE condensing units as noted above. Granting NCP's Petition for Waiver will encourage the introduction of advanced technologies while providing proper consideration of energy consumption.

IV. Affected Persons

Primarily affected persons in the space constrained air conditioner category include Aerosys, Inc. and First Co. The Air-Conditioning, Heating and Refrigeration Institute is also generally interested in energy efficiency requirements for air conditioning products. NCP will notify all of these entities as required by the Department's regulations and provide them with a version of this Petition.

Respectfully submitted,

Jean-Cyril Walker

Enclosures

cc: Brian Kelly, National Comfort Products
Ashley Armstrong, DOE Office of Energy Efficiency and Renewable Energy Johanna Jochum, DOE Office of the General Counsel

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[4] 10 C.F.R. § 430.27(g).

[5] *See* 81 Fed. Reg. 37,002.

See the following website for Exhibits 1-4:
https://www.regulations.gov/document?D=EERE-2017-BT-WAV-0030-0001
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