format (e.g., braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

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*Delegation of Authority:* The Secretary of Education has delegated authority to Joseph C. Conaty, Director, Academic Improvement and Teacher Quality Programs for the Office of Elementary and Secondary Education to perform the functions of the Assistant Secretary for Elementary and Secondary Education.

Dated: April 7, 2009.

**Joseph C. Conaty,**

*Director, Academic Improvement and Teacher Quality Programs.*

[FR Doc. E9–8251 Filed 4–9–09; 8:45 am]

**BILLING CODE 4000–01–P**

## DEPARTMENT OF ENERGY

**[Case No. CAC–018]**

## 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

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

**ACTION:** Decision and Order.

**SUMMARY:** This notice announces the Department of Energy's Decision and Order in Case No. CAC–018, which grants a waiver to Daikin AC (Americas), Inc. (Daikin) from the existing Department of Energy (DOE) test procedure applicable to commercial package water-source air conditioners and heat pumps. The waiver is specific to the Daikin Variable Speed and Variable Refrigerant Volume VRV–WII (commercial) multi-split water-source heat pump and heat recovery systems. DOE is granting this waiver because of the inability of the current test procedure to address systems with the level of complexity of the VRV–WII. As a condition of this waiver, Daikin must test and rate the energy efficiency of its VRV–WII water-source multi-split products according to the alternate test procedure set forth in this notice.

**DATES:** This Decision and Order is effective April 10, 2009.

**FOR FURTHER INFORMATION CONTACT:** Dr. Michael G. Raymond, U.S. Department of Energy, Building Technologies Program, Mailstop 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. Francine Pinto or Mr. Michael Kido, U.S. Department of Energy, Office of the General Counsel, Mailstop GC–72, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585–0103. Telephone: (202) 586–9507. E-mail: *Francine.Pinto@hq.doe.gov* or *Michael.Kido@hq.doe.gov*.

**SUPPLEMENTARY INFORMATION:** In accordance with 10 CFR 431.401(f)(4), DOE gives notice of the issuance of its Decision and Order as set forth below. In this Decision and Order, DOE grants Daikin a waiver from the existing DOE commercial package water-source air conditioner and heat pump test procedure under 10 CFR 431.96 and the International Organization for Standardization (ISO) Standard 13256–1 (1998) incorporated by reference, for its VRV–WII water-source multi-split products, subject to a condition requiring Daikin to test and rate the specified models from its VRV–WII product line according to the alternate test procedure provided in this notice. Today's Decision and Order requires that Daikin may not make any representations concerning the energy efficiency of these products unless such products have been tested in accordance with the DOE test procedure, consistent with the provisions and restrictions in the alternate test procedure as set forth in the Decision and Order below, and such representations fairly disclose the results of such testing.[1] (42 U.S.C. 6314(d))

Issued in Washington, DC, on March 30, 2009.

**Steven G. Chalk,**

*Principal Deputy Assistant Secretary, Energy Efficiency and Renewable Energy.*

### Decision and Order

*In the Matter of:* Daikin AC (Americas), Inc. (Daikin) (Case No. CAC–018).

*Background*

Title III of the Energy Policy and Conservation Act (EPCA) sets forth a variety of provisions concerning energy efficiency, including Part A–1[2] of Title III, which establishes an energy efficiency program titled, ''Certain Industrial Equipment,'' which includes commercial air conditioning equipment, package boilers, water heaters, and other types of commercial equipment. (42 U.S.C. 6311–6317) The statute specifically includes definitions, test procedures, labeling provisions, energy conservation standards, and provides the Secretary of Energy (the Secretary) with the authority to require information and reports from manufacturers. Further, Part A–1 authorizes the Secretary to prescribe test procedures that are reasonably designed to produce results measuring energy efficiency, energy use, or estimated annual operating costs, and that are not unduly burdensome to conduct. (42 U.S.C. 6314(a)(2))

Relevant to the current Petition for Waiver, under section 343(a)(4)(A) of EPCA, 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/Illuminating Engineering Society (IES) Standard 90.1 and in effect on June 30, 1992. (42 U.S.C. 6314(a)(4)(A)) Further, under section 343(a)(4)(B) of EPCA, if the underlying test procedure or rating procedure is amended, the Secretary must amend the test procedure for the covered commercial product as necessary to be consistent with the amended industry test procedure, unless the Secretary determines that the amended test procedure would not meet the statutory requirements set forth in 42 U.S.C. 6314(a)(2) and (3). (42 U.S.C. 6314(a)(4)(B))

The test procedures for commercial package air-conditioning and heating

[1] Consistent with the statute, distributors, retailers, and private labelers are held to the same standard when making representations regarding the energy efficiency of these products. (42 U.S.C. 6314(d))

[2] This part was originally titled Part C. However, it was redesignated Part A–1 in the United States Code for editorial reasons.

equipment are codified in DOE's regulations at 10 CFR 431.96, Table 1, which directs manufacturers of commercial package water-source air-conditioning and heating equipment to use the appropriate procedure when measuring the energy efficiency of those products. Relevant to these products, DOE's regulations at 10 CFR 431.95(b)(3) incorporate by reference ISO Standard 13256–1 (1998), ''Water-source heat pumps—Testing and rating for performance: Part 1—Water-to-air and brine-to-air heat pumps'' for measuring the energy efficiency of small commercial package water-source heat pumps with capacities <135,000 British thermal units per hour (Btu/hr). (The cooling capacities of Daikin's VRV–WII commercial package water-source multi-split heat pump products range from 60,000 Btu/hr to 252,000 Btu/hr, so products with capacities less than 135,000 Btu/hr are covered under 10 CFR 431.96, which requires testing with ISO Standard 13256–1 (1998).) There is no test procedure for water-source products above 135,000 Btu/hr, so no waiver is required for these products.

DOE's regulations at 10 CFR 431.401(a) set forth procedures under which interested persons may submit a petition to waive for a particular basic model any requirements of the test procedures in 10 CFR 431.96 (among others) on the grounds that either the basic model contains one or more design characteristics which prevent testing according to the prescribed test procedures, or 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 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 (the Assistant Secretary) may grant a waiver subject to conditions, including adherence to alternate test procedures. 10 CFR 431.401(f)(4). In general, a waiver terminates on the effective date of a final rule, published in the **Federal Register**, which prescribes amended test procedures appropriate to the model series manufactured by the petitioner, eliminating the need for the continuation of the waiver. 10 CFR 431.401(g).

The waiver process also allows any person who has submitted 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 if DOE determines 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 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, and may be extended by DOE for an additional 180 days, if necessary. 10 CFR 431.401(e)(4).

On January 22, 2007, Daikin submitted a Petition for Waiver and an Application for Interim Waiver from the above test procedures applicable to commercial package water-source heat pumps. Daikin seeks a waiver from the applicable test procedures because the design characteristics of these models prevent testing according to the currently prescribed test procedures. The company's rationale seeking this waiver is based on complexity—there are too many indoor units connected in a typical system to test with existing facilities, and too many possible combinations for practical testing. The capacities of the Daikin VRV–WII multi-split heat pumps range from 60,000 Btu/hr to 252,000 Btu/hr. DOE notes that although the Daikin 60,000 Btu/hr unit is of a size appropriate for residential applications, it is considered a commercial product and sold for commercial use. Accordingly, the appropriate test procedure is the same for all three outdoor units (Models RWEYQ60, RWEYQ72, RWEYQ84) with capacities less than 135,000 Btu/hr, ISO 13256–1 (1998). DOE further notes that Daikin also requested a waiver for four outdoor units with capacities greater than 135,000 Btu/hr, but because DOE does not have a test procedure for such products, there is no need for a waiver.

On January 7, 2008, DOE published Daikin's Petition for Waiver in the **Federal Register** and granted the Application for Interim Waiver. 73 FR 1213.

In a similar and relevant case, DOE published a Petition for Waiver from Mitsubishi Electric and Electronics USA, Inc. (MEUS) for products very similar to Daikin's Airstage VRF multi-split products. 71 FR 14858 (March 24, 2006). In the March 24, 2006 **Federal Register** notice, DOE also published and requested comment on an alternate test procedure for the MEUS products at issue. DOE stated that if it specified an alternate test procedure for MEUS in the subsequent Decision and Order, DOE would consider applying the same procedure to similar residential and commercial central air conditioners and heat pumps, including such products for which waivers had previously been granted. *Id.* at 14861. Comments were published along with the MEUS Decision and Order in the **Federal Register** on April 9, 2007. 72 FR 17528 (April 9, 2007). Most of the comments responded favorably to DOE's proposed alternate test procedure. *Id.* at 17529. Also, there was general agreement that an alternate test procedure is necessary while a final test procedure for these types of products is being developed. *Id.* The MEUS Decision and Order included the alternate test procedure adopted by DOE. *Id.*

DOE received no comments on the Daikin petition.

*Assertions and Determinations*

Daikin's Petition for Waiver

On January 22, 2007, Daikin submitted a Petition for Waiver and an Application for Interim Waiver from the test procedures at 10 CFR 431.96 that apply to commercial package water-source heat pumps. The products covered by this petition represent the models of Daikin's multi-split product line that use water, instead of air, as a heat source and heat sink. However, Daikin asserts that the water-source VRV–WII systems operate in the same configurations as the air-source VRV and VRV–S systems which have been granted similar waivers, with the only relevant difference being the heat rejection medium. Specifically, Daikin asserts that the two primary factors that prevent testing of multi-split variable speed products generally are the same factors DOE considered when it granted waivers to MEUS, Fujitsu General Ltd. (Fujitsu), and Samsung Air Conditioning (Samsung) for similar lines of commercial multi-split air-conditioning systems:

- The large number (over a million) of potential combinations with the VRV–WII product line make it impractical for testing laboratories to test this product.
- There are too many possible combinations (over a million) of indoor and outdoor units to test.

69 FR 52660 (August 27, 2004); 72 FR 17528 (April 9, 2007); 72 FR 71383 (December 17, 2007); 72 FR 71387 (December 17, 2007).

Accordingly, Daikin requested that DOE grant a waiver from existing test procedures until such time as a representative test procedure is developed and adopted for this class of

products. DOE believes that the VRV–WII Daikin equipment and equipment for which waivers have previously been granted are alike with respect to the factors that make them eligible for test procedure waivers.

Previously, in addressing MEUS's R410A CITY MULTI VRFZ products, which are similar to Daikin's VRV–WII multi-split products at issue here, DOE stated:

> To provide a test procedure from which manufacturers can make valid representations, the Department is considering setting an alternate test procedure for MEUS in the subsequent Decision and Order. Furthermore, if DOE specifies an alternate test procedure for MEUS, DOE is considering applying the alternate test procedure to similar waivers for residential and commercial central air conditioners and heat pumps. Such cases include Samsung's petition for its DVM products (70 FR 9629, February 28, 2005), Daikin's petition for its Airstage variable refrigerant flow (VRF) products (70 FR 5980, February 4, 2005), and MEUS's petition for its R22 CITY MULTI VRFZ products. (69 FR 52660 August 27, 2004).

71 FR 14861.

Daikin did not include an alternate test procedure in its Petition for Waiver. However, in response to two recent Petitions for Waiver from MEUS, DOE specified an alternate test procedure to provide a basis from which MEUS 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 MEUS petitions were published in the **Federal Register** on April 9, 2007. 72 FR 17528; 72 FR 17533.

To enable Daikin to make energy efficiency representations for its specified VRV–WII water-source multi-split products, DOE has decided to require use of the alternate test procedure described below, as a condition of Daikin's waiver. This alternate test procedure is substantially the same as the one that DOE applied to the MEUS waiver.

In general, DOE understands that existing testing facilities have a limited ability to test multiple indoor units at one time, and the number of possible combinations of indoor and outdoor units for some variable refrigerant flow zoned systems is impractical to test. We further note that subsequent to the waiver that DOE granted for MEUS's R22 multi-split products, ARI formed a committee to discuss the issue and to work on developing an appropriate testing protocol for variable refrigerant flow systems. However, to date, no additional test methodologies have been adopted by the committee or submitted to DOE.

Therefore, as discussed below, as a condition for granting this Waiver to Daikin, DOE is including an alternate test procedure similar to those granted to MEUS for its R22 and R410A products. DOE is issuing today's Decision and Order granting Daikin a test procedure waiver for its commercial VRV–WII water-source multi-split heat pumps, but is requiring the use of the alternate test procedure described below as a condition of Daikin's waiver. This alternate test procedure is substantially the same as the one that DOE applied to the MEUS waiver.

DOE's Alternate Test Procedure

The alternate test procedure developed in conjunction with the MEUS waiver has two basic components. First, it permits Daikin 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 five indoor units so that it can be tested in available test facilities. The tested combination must be tested according to the applicable DOE test procedure, as modified by the provisions of the alternate test procedure.

Second, having an alternate DOE test procedure that can be applied to its products allows Daikin to represent the energy efficiency of that product. These representations must fairly disclose the results of such testing. The alternate test procedure set forth in this Decision and Order provides for testing of a non-tested combination in one of two ways: (1) At an energy efficiency level determined under a DOE-approved alternative rating method; or (2) if the first method is not available, then at the efficiency level of the tested combination utilizing the same outdoor unit. Until an alternative rating method is developed, all combinations with a particular outdoor unit may use the rating of the combination tested with that outdoor unit.

As in the MEUS matter, DOE believes that allowing Daikin 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. The current DOE test procedure tends to rate these products conservatively. The multi-zoning feature of these products, which enables them to cool only those portions of the building that require cooling, would be expected to use less energy than if the unit is operated to cool the entire home or a comparatively larger area of a commercial building in response to a single thermostat. This performance aspect is not captured by the current DOE test procedure, which requires full-load testing. Full load testing, under which the entire building would require cooling, disadvantages these products because they are optimized for their highest efficiency when operating with less than full loads, which is how these products normally operate. Therefore, the alternate test procedure will provide a conservative basis for assessing the energy efficiency for such products.

While the alternate test procedure applies to both residential and commercial multi-split products, some provisions within this procedure are specific to residential or commercial products. For example, section (A) of the alternate test procedure has different provisions for residential and commercial products. In contrast, section (B), which defines the combinations of indoor and outdoor units to test, and section (C), which sets forth the requirements for making representations, are the same for both residential and commercial products.

Section (A) distinguishes between residential and commercial products for two reasons. First, 10 CFR 430.24, used for residential products, already has requirements for selecting split-system combinations based on the highest sales volume. However, 10 CFR Part 431, which applies to commercial products, has no comparable requirements. Therefore, section (A) of the alternate test procedure modifies the existing residential and commercial requirements so that both residential and commercial products can use the same definition of a ''tested combination,'' which is set forth in section (B).

Second, section (A) requires several test procedure revisions to determine the seasonal energy efficiency ratio and heating seasonal performance factor for the tested combination of residential products. No test procedure revisions are introduced for commercial products because EPCA directs DOE to adopt generally accepted industry test standards (unless amendments to those industry test procedures are determined by clear and convincing evidence not to meet the requirements of the statute). (42 U.S.C. 6314(a)(4))

With regard to the laboratory testing of commercial products, some of the difficulties associated with the existing test procedure are avoided by the alternate test procedure's requirements for choosing the indoor units to be used in the manufacturer-specified tested

combination. For example, in addition to limiting the number of indoor units, all indoor units must meet the same minimum external static pressure requirement. This requirement allows the test lab to manifold the outlets from each indoor unit into a common plenum that supplies air to a single airflow measuring apparatus. This requirement eliminates situations in which some of the indoor units are ducted and some are non-ducted. Without this requirement, the laboratory must evaluate the capacity of a subgroup of indoor coils separately, and then sum the separate capacities to obtain the overall system capacity. This would require that the test laboratory be equipped with multiple airflow measuring apparatuses (which is unlikely), or that the test laboratory connect its one airflow measuring apparatus to one or more common indoor units until the contribution of each indoor unit has been measured.

Furthermore, DOE stated in the notice publishing the MEUS Petition for Waiver that if DOE decides to specify an alternate test procedure for MEUS, it would consider applying the procedure to waivers for similar residential and commercial central air conditioners and heat pumps produced by other manufacturers. 71 FR 14858, 14861 (March 24, 2006). Most of the commenters to the March 2006 notice favored the proposed alternate test procedure, generally agreeing that an alternate test procedure is appropriate for an interim period while a final test procedure for these products is being developed.

In light of the discussion above, DOE believes that the problems described above would prevent testing of Daikin's VRV–WII water-source multi-split products according to the test procedures currently prescribed in 10 CFR 431.96. After reviewing and considering all of the comments submitted in response to the prior MEUS petition regarding the proposed alternate test procedure, DOE has decided to adopt the proposed alternate test procedure, with the clarifications discussed above for the Daikin products. DOE will also consider applying the same alternate test procedure to waivers for similar central air conditioners and heat pumps.

Consultations With Other Agencies

DOE consulted with the Federal Trade Commission (FTC) staff concerning the Daikin Petition for Waiver. The FTC staff did not have any objections to the issuance of a waiver to Daikin.

*Conclusion*

After careful consideration of all the materials submitted by Daikin, the comments received, and consultation with the FTC staff, it is ordered that:

(1) The ''Petition for Waiver'' filed by Daikin AC (Americas), Inc. (Daikin) (Case No. CAC–018) is hereby granted as set forth in the paragraphs below.

(2) Daikin shall not be required to test or rate its VRV–WII water-source multi-split air conditioner and heat pump models listed below on the basis of the current test procedures contained in 10 CFR 431.96, specifically, ISO Standard 13256–1 (1998) (incorporated by reference in 10 CFR 431.95(b)(3)), but shall be required to test and rate such products according to the alternate test procedure as set forth in paragraph (3).

*VRV–WII Series Outdoor Units:*

• Models RWEYQ60, RWEYQ72, RWEYQ84

*Compatible Indoor Units for Above-Listed Outdoor Units:*

• FXAQ Series wall mounted indoor units with nominally rated capacities of 7,000, 9,000, 12,000, 18,000 and 24,000 Btu/hr.

• FXLQ Series floor mounted indoor units with nominally rated capacities of 12,000, 18,000 and 24,000 Btu/hr.

• FXNQ Series concealed floor mounted indoor units with nominally rated capacities of 12,000, 18,000 and 24,000 Btu/hr.

• FXDQ Series low static ducted indoor units with nominally rated capacities of 7,000, 9,000, 12,000, 18,000 and 24,000 Btu/hr.

• FXSQ Series medium static ducted indoor units with nominally rated capacities of 7,000, 9,000, 12,000, 18,000, 24,000, 30,000, 36,000 and 48,000 Btu/hr.

• FXMQ Series high static ducted indoor units with nominally rated capacities of 30,000, 36,000 and 48,000 Btu/hr.

• FXZQ Series recessed cassette indoor units with nominally rated capacities of 7,000, 9,000, 12,000, 18,000 and 24,000 Btu/hr.

• FXFQ Series recessed cassette indoor units with nominally rated capacities of 12,000, 18,000, 30,000 and 36,000 Btu/hr.

• FXHQ Series ceiling suspended indoor units with nominally rated capacities of 12,000, 24,000 and 36,000 Btu/hr.

• FXOQ Series concealed indoor units with nominally rated capacities of 12,000, 18,000, 24,000, 36,000, 42,000, 36,000 and 48,000 BTU/hr.

(3) *Alternate test procedure.*

(A) Daikin shall be required to test the products listed in paragraph (2) above according to the test procedures for water-source central air conditioners and heat pumps (contained in ISO Standard 13256–1 (1998) (incorporated by reference in 10 CFR 431.95(b)(3)), except that Daikin 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, Daikin shall make representations concerning the VRV–WII water-source multi-split 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 of an outdoor unit that is matched with between two and five indoor units; 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 to meet the requirements of (b);

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

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

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

(e) All be subject to the same minimum external static pressure requirement.

(C) *Representations.* In making representations about the energy efficiency of its VRV–WII water-source multi-split products, for compliance, marketing, or other purposes, Daikin 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 VRV–WII multi-split combinations tested in accordance with this alternate test procedure, Daikin must disclose these test results.

(ii) For VRV–WII multi-split combinations that are not tested, Daikin must make a disclosure based on the testing results for the tested combination and which are consistent

with either of the two following methods, except that only method (a) may be used, if available:

(a) Representation of non-tested combinations according to an alternative rating method 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.

(4) This waiver shall remain in effect from the date of issuance of this Order until the effective date of a DOE final rule prescribing amended test procedures appropriate to the model series manufactured by Daikin listed above.

(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.

Issued in Washington, DC, on March 30, 2009.

**Steven G. Chalk,**

*Principal Deputy Assistant Secretary, Energy Efficiency and Renewable Energy.*

[FR Doc. E9–8216 Filed 4–9–09; 8:45 am]

**BILLING CODE 6450–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket Nos. IC09–500–000 and IC09–505–000]**

### Commission Information Collection Activities (FERC–500 and FERC–505); Comment Request; Extensions

April 6, 2009.

**AGENCY:** Federal Energy Regulatory Commission, Energy.

**ACTION:** Notice of proposed information collections and request for comments.

**SUMMARY:** In compliance with the requirements of section 3506(c)(2)(a) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the specific aspects of the information collections described below.

**DATES:** Comments in consideration of the collections of information are due June 9, 2009.

**ADDRESSES:** Examples of these collections of information may be obtained from the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp*. Comments may be filed either electronically or in paper format, and should refer to Docket Nos. IC09–500–000 and IC09–505–000. Documents must be prepared in an acceptable filing format and in compliance with the Federal Energy Regulatory Commission submission guidelines at *http://www.ferc.gov/help/submission-guide.asp*.

Comments may be filed electronically via the eFiling link on the Commission's Web site at *http://www.ferc.gov*. First time users will have to establish a user name and password (*http://www.ferc.gov/docs-filing/eregistration.asp*) before eFiling. The Commission will send an automatic acknowledgment to the sender's e-mail address upon receipt of comments through eFiling.

Commenters filing electronically should not make a paper filing. Commenters that are not able to file electronically must send the original and 14 copies of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street, NE., Washington, DC 20426.

Users interested in receiving automatic notification of activity in this docket may do so through eSubscription at *http://www.ferc.gov/docs-filing/esubscription.asp*. In addition, all comments and FERC issuances may be viewed, printed or downloaded remotely through FERC's Web site using the ''eLibrary'' link and searching on Docket Numbers IC09–500 and IC09–505. For user assistance, contact FERC Online Support at: *ferconlinesupport@ferc.gov*, (866) 208–3676 (toll free), or (202) 502–8659 (TTY).

**FOR FURTHER INFORMATION CONTACT:** Ellen Brown may be reached by telephone at (202) 502–8663, by fax at (202) 273–0873, or by e-mail at *ellen.brown@ferc.gov*.

**SUPPLEMENTARY INFORMATION:** For the purpose of publishing this notice and seeking public comment, FERC requests comments on both FERC–500 (Application for License/Relicense for Water Projects with Capacity Greater than 5 MW; OMB Control No. 1902–0058), and FERC–505 (Application for License/Relicense for Water Projects with Capacity 5 MW or Less; OMB Control No. 1902–0115). The associated regulations, reporting requirements, burdens, and OMB clearance numbers will continue to remain separate and distinct for FERC–500 and FERC–505.

*FERC–500:* The information collected under the requirements of FERC–500 is used by the Commission to determine the broad impact of a hydropower project (including hydrokinetic projects) license application. In deciding whether to issue a license, the Commission gives equal consideration to a full range of licensing purposes related to the potential value of a stream, river, or other navigable waterway including the oceans. Among these purposes are: Hydroelectric or hydrokinetic development; energy conservation; fish and wildlife resources (including their spawning grounds and habitat); visual resources; cultural resources; recreational opportunities; other aspects of environmental quality; irrigation; flood control and water supply. Submittal of the information is necessary to fulfill the requirements of the Federal Power Act in order for the Commission to determine whether the proposal is best adapted to a comprehensive plan for improving or developing a waterway(s).

Under Part I of the Federal Power Act (FPA; 16 U.S.C. 791a *et seq.*), the Commission has the authority to issue licenses for hydroelectric projects on the waters over which Congress has jurisdiction. The Electric Consumers Protection Act (ECPA; Pub. L. 99–495, 100 Stat. 1243) provides the Commission with the responsibility of issuing licenses for nonfederal hydroelectric plants. ECPA also amended the language of the FPA concerning environmental issues to ensure environmental quality. In Order No. 2002 (68 FR 51070, August 25, 2003), the Commission revised its regulations to create a new licensing process [1] in which a potential license applicant's pre-filing consultation and the Commission's scoping process pursuant to the National Environmental Policy Act (NEPA; 42 U.S.C. 4321) are conducted concurrently rather than sequentially.

The information collected is needed: (1) To evaluate license applications pursuant to the comprehensive development standard of FPA sections 4(e) and 10(a)(1), (2) to consider the

[1] Applicants have benefited from: (a) Increased public participation in pre-filing consultation; (b) increased assistance from Commission staff to the potential applicant and stakeholders during the development of a license application; (c) development by the potential applicant of a Commission-approved study plan; (d) elimination of the need for post-application study requests; (e) issuance of public schedules and enforcement of deadlines; (f) better coordination between the Commission's processes, including the NEPA document preparation, and those of Federal and state agencies and Indian Tribes with authority to require conditions for Commission-issued licenses.