should be electronically mailed to *ICDocketMgr@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

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## DEPARTMENT OF ENERGY

### Office of Energy Efficiency and Renewable Energy

**[Docket No. EERE–2006–WAV–0147]**

### 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)

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

**ACTION:** Decision and Order.

**SUMMARY:** Today's notice publishes a Decision and Order (Case No. CAC–012) granting a Waiver to Mitsubishi Electric and Electronics USA, Inc. (''MEUS'') from the existing Department of Energy (DOE) residential and commercial package air conditioner and heat pump test procedures for specified R410A CITY MULTI products. MEUS shall be required to test and rate the R410A CITY MULTI VRFZ products according to the alternate test procedure set forth in this notice. DOE is also amending the waiver granted to MEUS for its R22 CITY MULTI products in August 2004 to explicitly prohibit MEUS from making energy efficiency representations regarding these products unless such representations are consistent with the alternate test procedure.

**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: *Michael.Raymond@ee.doe.gov;* or Francine Pinto, Esq., U.S. Department of Energy, Office of General Counsel, Mail Stop GC–72, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585–0103, (202) 586–9507; E-mail: *Francine.Pinto@hq.doe.gov*.

**SUPPLEMENTARY INFORMATION:** In accordance with Title 10, Code of Federal Regulations Parts 430.27(l) and 431.401(f)(4), notice is hereby given of the issuance of a Decision and Order granting MEUS a Waiver from the applicable Department of Energy residential and commercial package air conditioner and heat pump test procedures for its R410A CITY MULTI Variable Refrigerant Flow Zoning (''VRFZ'') products, subject to a condition requiring MEUS to test and rate its R410A CITY MULTI products pursuant to the alternate test procedure described in this notice. Today's decision requires that any representations concerning the energy efficiency of these products are made consistent with the provisions and restrictions in the alternate test procedure.

The waiver granted for MEUS's R22 CITY MULTI VRFZ products on August 27, 2004, is hereby amended to prohibit MEUS from making energy efficiency representations regarding its R22 CITY MULTI products unless such representations are made consistent with the provisions set forth in the alternate test procedure described in this notice.

Issued in Washington, DC, on April 2, 2007.

**Alexander A. Karsner,**

*Assistant Secretary, Energy Efficiency and Renewable Energy.*

### Decision and Order

*In the Matter of:* Mitsubishi Electric and Electronics USA, Inc. (''MEUS'') (Case No. CAC–012).

*Background*

Title III of the Energy Policy and Conservation Act (''EPCA'') sets forth a variety of provisions concerning energy efficiency. Part B of Title III (42 U.S.C. 6291–6309) provides for the ''Energy Conservation Program for Consumer Products other than Automobiles.'' Part C of Title III (42 U.S.C. 6311–6317) provides for an energy efficiency program entitled ''Certain Industrial Equipment,'' which is similar to the program in Part B, and which includes commercial air conditioning equipment, packaged boilers, water heaters, and other types of commercial equipment.

Today's notice involves residential products under Part B, and commercial equipment under Part C. Both parts specifically provide for definitions, test procedures, labeling provisions, energy conservation standards, and the authority to require information and reports from manufacturers. With respect to test procedures, both parts generally authorize the Secretary of Energy to prescribe test procedures that are reasonably designed to produce results which reflect energy efficiency, energy use and estimated operating costs, and that are not unduly burdensome to conduct. (42 U.S.C. 6293(b)(3), 6314(a)(2))

The test procedure for residential central air conditioning and heat pump products is contained in 10 CFR Part 430, Subpart B, Appendix M. For commercial package air conditioning and heating equipment, EPCA provides that the test procedures shall be those generally accepted industry testing 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)) This section also provides for the Secretary of Energy to amend the test procedure for a product if the industry test procedure is amended, unless the Secretary determines that such a modified test procedure does not meet the statutory criteria. (42 U.S.C. 6314(a)(4)(B))

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. DOE adopted ARI Standard 210/240–2003 for commercial package air conditioning and heating equipment with capacities <65,000 Btu/h and ARI Standard 340/360–2004 for commercial package air conditioning and heating equipment with capacities ≥65,000 Btu/h and <240,000 Btu/h. *Id.* at 71371. The[MR1] capacities of MEUS's CITY MULTI VRFZ products fall in the ranges covered by ARI Standard 340/360–2004 and the DOE test procedure for residential products referred to above.

DOE's regulations contain provisions allowing a person to seek a waiver from the test procedure requirements for covered consumer products. These provisions are set forth in 10 CFR 430.27. The waiver provisions for commercial equipment are substantively identical to those for covered consumer products and are found at 10 CFR 431.401.

The waiver provisions allow the Assistant Secretary for Energy Efficiency and Renewable Energy (''Assistant Secretary'') 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. 10 CFR 430.27(a)(1), 10 CFR 431.401(a)(1).

The Assistant Secretary may grant the waiver subject to conditions, including adherence to alternate test procedures. 10 CFR 430.27 (l), 10 CFR 431.401 (f)(4). Petitioners are to include in their petition any alternate test procedures known to evaluate the basic model in a manner representative of its energy consumption. 10 CFR 430.27(b)(1)(iii), 10 CFR 431.401(b)(1)(iii). Waivers generally remain in effect until final test procedure amendments resolving the problem that is the subject of the waiver become effective.

The waiver process also allows the Assistant Secretary to grant an Interim Waiver from test procedure requirements to manufacturers that have petitioned DOE for a waiver of such prescribed test procedures. 10 CFR 430.27(a)(2), 10 CFR 431.401(a)(2). An Interim Waiver remains in effect for a period of 180 days or until DOE issues its determination on the Petition for Waiver, whichever is sooner, and may be extended for an additional 180 days, if necessary. 10 CFR 430.27(h), 10 CFR 431.401(e)(4).

On November 7, 2005, MEUS filed an Application for Interim Waiver and Petition for Waiver from the test procedures applicable to the R410A models of its CITY MULTI VRFZ line of residential and commercial package air conditioning and heating equipment. MEUS's petition requested a waiver from both the residential and commercial test procedures. In particular, MEUS requested a waiver from the residential test procedures contained in 10 CFR Part 430, subpart B, Appendix M, and a waiver from the commercial test procedures contained in ARI Standard 210/240–2003 and in ARI Standard 340/360–2000.[1] MEUS seeks a waiver from the applicable test procedures because the design characteristics of the R410A systems prevent testing according to the currently prescribed test procedures.

On March 24, 2006, DOE published MEUS's Petition for Waiver and granted the Application for Interim Waiver.[2] DOE also published for comment an alternate test procedure for MEUS. DOE stated that if it specified an alternate test procedure for MEUS in the subsequent Decision and Order, DOE would consider applying the procedure to similar waivers for residential and commercial central air conditioners and heat pumps, including such waivers that previously have been granted.[3] DOE solicited comments, data, and information respecting the petition and the proposed alternate test procedure.

DOE received written comments from seven companies—Rheem Heating and Cooling, Lennox International Inc., Daikin AC (Americas), Inc, Samsung and Quietside, Sanyo Fisher Company, United Mechanical and MEUS—in response to the March 24th Notice. Only one commenter expressed opposition to the MEUS petition.[4] Additionally, most of the commenters responded favorably to DOE's proposed alternate test procedure.[5] Commenters generally agreed that an alternate test procedure is necessary while a final test procedure for these types of products is being developed.[6]

*Assertions and Determinations*

MEUS's Petition for Waiver

DOE previously granted MEUS a waiver from test procedures in 2004 for similar CITY MULTI VRFZ models which use R22 as a refrigerant.[7] Given product adjustments to accommodate the new R410A refrigerant, MEUS requested a waiver from the test procedures for its new CITY MULTI models. The MEUS petition 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. MEUS did not include an alternate test procedure in its petition and noted that it knows of no test procedure that could evaluate its products in a representative manner. However, MEUS is actively working with ARI to develop test procedures that accurately reflect the operation and energy consumption of these types of units.

MEUS's petition presented several arguments in support of its claim. MEUS stated that the design characteristics of the R410A CITY MULTI VRFZ systems prevent testing according to the currently prescribed test procedures for the same reasons that its R22 models were previously granted a waiver. The R410A CITY MULTI systems, like the R22 models, can connect more indoor units than the test laboratories can physically test at one time. Because of the inability to test products with so many indoor units, testing laboratories will not be able to test many of the R410A system combinations. Furthermore, MEUS asserted that the current DOE test procedures do not provide direction for determining what combinations of outdoor and indoor units should be tested in the circumstance where a multitude of different combinations are possible. Also, the test procedures provide no mechanism for sampling component combinations. In addition, MEUS asserted that it is not practical to test all of the potentially available combinations of indoor and outdoor units, which could number in the billions.

MEUS stated that the R410A CITY MULTI system is designed to be flexible, with numerous combinations possible. According to MEUS, each of the 108,000 Btu/h rated outdoor units is designed to be connected with up to 18 indoor units, while each of the 234,000 Btu/h rated outdoor units can be configured with up to 32 indoor units. MEUS offers 58 different indoor models that can be used in the different combinations. Given the above, MEUS asserts the current test procedures cannot practically be applied to the CITY MULTI VRFZ systems.

MEUS claims that many of the benefits of its systems' characteristics, including variable refrigerant control and distribution, zoning diversity, part-load operation and simultaneous

[1] In its petition, MEUS also requested a waiver from ARI Standard 210/240–2003. Based on a review of the products listed by MEUS in its petition, DOE has determined that none of the products have the combined features (i.e., 3-phase power and rated capacity less than 65,000 Btu/h) that would require a waiver from ARI Standard 210/240–2003.

[2] *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 Residential and Commercial Package Air Conditioner and Heat Pump Test Procedures (Case No. CAC–012)*, 71 FR 14858 (March 24, 2006) (hereinafter, March 24th Notice). On April 11, 2006, MEUS submitted a Corrected Petition for Waiver of Test Procedure and Application for Interim Waiver (''Corrected Petition'') to DOE. The Corrected Petition noted five minor errors in the list of model numbers for which the waiver and the interim waiver had been requested. MEUS requested that the interim waiver granted apply to the corrected list of model numbers, and that DOE use the corrected list of model numbers in any future actions regarding the Petition for Test Procedure Waiver. In a letter dated June 1, 2006, DOE granted MEUS's request.

[3] March 24th Notice, 71 FR 14861.

[4] The only commenter that objected to MEUS's Petition was Lennox International Inc.

[5] See Comments submitted by Sanyo Fisher Company, Samsung and Quietside, United Mechanical, Daikin AC (Americas), Inc., and Rheem Heating and Cooling.

[6] See Comments submitted by MEUS, Sanyo Fisher Company, Samsung and Quietside, Daikin AC (Americas), Inc., and Rheem Heating and Cooling.

[7] *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 FR 52660, at 52662 (Aug. 27, 2004) (hereinafter, ''2004 Waiver'').

heating and cooling, are not credited under the current test procedures. For residential systems, there are some deficiencies in the current DOE test methods and calculation algorithms when applied to multi-split systems. With regard to commercial systems, MEUS asserts that the current test procedure for the energy efficiency ratio (''EER'') does not capture the energy savings of VRFZ products. The same issue was raised by MEUS in its petition for waiver for its R22 CITY MULTI products. As DOE stated in the waiver granted in August 2004, ''while this assertion is true, it is irrelevant because the full load EER energy efficiency descriptor is one mandated by EPCA for these products (42 U.S.C. 6313(a)(1)(c)), and the relevant energy performance is the peak load efficiency, not the seasonal energy savings.'' [8] A waiver can only be granted if a test procedure does not fairly represent the peak load energy consumption characteristics which EER measures. Therefore, the basis for this waiver, as was the case for the 2004 Waiver, is the problem of being physically unable to test most of the complete systems in a laboratory, the regulatory requirement to test the highest-sales-volume combination, and the lack of a method for predicting the performance of untested combinations.

Lennox International Inc. argued that waivers for VRFZ systems should not be granted because the existing DOE test procedures are available to rate these systems. DOE agrees that the existing test procedures can be used, but only after clarifications are made and deficiencies are addressed.

In August 2004, DOE granted a Petition for Waiver to MEUS relating to its R22 CITY MULTI VRFZ products, finding that ''the basic model contains one or more design characteristics which * * * prevent testing of the basic model according to the prescribed test procedures.'' [9] MEUS's November 2005 Petition for Waiver for its R410A CITY MULTI VRFZ products presents virtually the same issues, and thus we find that waiver of the test procedures is appropriate. To enable MEUS to make energy efficiency representations for the specified CITY MULTI products, DOE adopts the alternate test procedure described below.

DOE's Alternate Test Procedure

As explained in DOE's March 24th Notice, manufacturers face restrictions with respect to making representations about the energy consumption and energy consumption costs of products covered by EPCA. (42 U.S.C. 6293(c), 42 U.S.C. 6314(d)). The ability of a manufacturer to make representations about the energy efficiency of its products is important, for instance, to determine compliance with state and local energy codes and regulatory requirements. Energy efficiency representations also provide valuable consumer purchasing information. Therefore, to provide a basis from which manufacturers covered by a test procedure waiver for VRFZ products can make valid energy efficiency representations, DOE proposed an alternate test procedure for MEUS in the March 24th Notice.

The alternate test procedure has two basic components. First, it permits MEUS 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. Second, it permits MEUS to represent the energy efficiency for a non-tested combination in two ways. MEUS may represent the energy efficiency of a non-tested combination: (1) At an energy efficiency level determined under a DOE-approved alternative rating method; or, if method (1) Is not available, (2) 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. DOE believes that allowing MEUS to make energy efficiency representations for non-tested combinations as described above is reasonable because the outdoor unit is the principal efficiency driver. The current test procedure tends to rate these products conservatively. This is because the current test procedure does not account for the product's simultaneous heating and cooling capability, which is more efficient than requiring all zones to be either heated or cooled. Further, the multi-zoning feature of these products, which enables them to cool only those portions of the building that require cooling, can 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. Additionally, the current test procedure for commercial equipment requires full load testing, which disadvantages these products because they are optimized for best efficiency when operating with less than full loads. In fact, these products normally operate at part-load conditions. Therefore, as explained in the March 24th Notice, the alternate test procedure will provide a conservative basis for assessing the energy efficiency for such products.[10]

The alternate test procedure applies to both residential and commercial multi-split products. However, some provisions are specific to residential or commercial products. Section (A) of the alternate test procedure has different provisions for residential and commercial products. 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 part 430.24, used for residential products, already has requirements for selecting split-system combinations based on the highest sales volume. Part 431 of 10 CFR, which applies to commercial products, has no comparable requirements. Section (A) modifies the residential and commercial CFR requirements so that both residential and commercial products can use the same definition of a ''tested combination,'' which definition is set forth in section (B). Second, section (A) requires several test procedure revisions to determine the SEER and HSPF for the tested combination of residential products. No test procedure revisions are introduced for commercial products. [P3] The changes for residential products relate to: (1) The requirement that all indoor units operate during all tests, (2) the restriction on using only one indoor test room, (3) the selection of the modulation levels (maximum, minimum, and a specified intermediate speed) used when testing, and (4) the algorithm for estimating performance over the intermediate speed operating range. These changes are proposed in a July 20, 2006, DOE notice of proposed rulemaking. 71 FR 41320. For today's Decision and Order, the July 20, 2006, proposed changes to test procedure sections 2.1, 2.2.3, 2.4.1, 3.2.4 (including Table 6), 3.6.4 (including Table 12), 4.1.4.2, and 4.2.4.2 constitute mandatory elements of the alternate test procedure. These changes allow indoor units to cycle off, allow the manufacturer to specify the compressor

[8] 69 FR 52662 (Aug. 27, 2004).

[9] *Ibid.*

[10] 71 FR 14862 (March 24, 2006).

speed used during certain tests, and introduce a new algorithm for estimating power consumption.

With regard to the laboratory testing of both residential and commercial products, some of the difficulties are avoided by the 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, another requirement is that all of the indoor units must be subject to meeting the same minimum external static pressure. 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 lab must be equipped with multiple airflow measuring apparatuses (which is unlikely), or that the test lab connect its one airflow measuring apparatus to one or more common indoor units until the contribution of each indoor unit has been measured.

DOE stated that if it specified 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. Most of the comments received by DOE favored the proposed alternate test procedure. Commenters generally agreed that an alternate test procedure is appropriate for an interim period while a final test procedure for these products is being developed.[11]

Sanyo and Daikin raised concerns regarding DOE's proposal to allow manufacturers to represent the energy efficiency of non-tested combinations at the DOE-prescribed minimum efficiency level for the product class. They suggested that allowing such ratings without testing the product may allow low efficiency products to be installed even though equipment that meets or exceeds the minimum requirements is available.[12] DOE believes these commenters misread the proposed alternate test procedure. As explained in the March 24th Notice, the alternate test procedure adopts a conservative approach for rating VRFZ products based on the tested results of a simple system configuration. In the proposed alternate test procedure, DOE would allow manufacturers to make efficiency representations for non-tested combinations at the DOE-prescribed minimum efficiency level for the product class only if the tested combination with the same outdoor unit met or exceeded the minimum efficiency level. 71 FR 14862, March 24, 2006. DOE is eliminating this option because, as explained below, there is no need for it.

Rheem suggested that third party testing, or on-site witness testing, is the preferred method to verify system performance.[13] Additionally, Rheem requested that, in order to provide fair and equitable test methods and ratings to the consumer, the heating test points and laboratory operating conditions remain consistent.[14] DOE's alternate test procedure would specify certain parameters for the testing of VRFZ products, but would otherwise retain the existing test procedure protocols on issues such as where products are tested, test points, and laboratory operating conditions. Thus, in these respects, VRFZ systems would be tested as other products are tested under the existing test procedures.

Lennox suggested that DOE bar sales of non-tested combinations with an evaporator capacity of less than 95% of the nominal outdoor unit capacity unless an approved ARM (alternative rating method) simulation is available to demonstrate conformance to the minimum efficiency requirement.[15] No data was provided to justify this proposed indoor-to-outdoor sizing limitation and so DOE is inclined not to impose such a regulatory limitation on VRFZ configurations at this time. Moreover, DOE expects the development of an alternative rating method that is applicable to multi-split systems like the MEUS CITY MULTI products will follow, and not precede, the work by ARI members to develop a multi-split test procedure.

Based on the discussion above, DOE believes that the testing problems described above do prevent testing of the R410A CITY MULTI basic model according to the test procedures prescribed in 10 CFR Part 430, Subpart B, Appendix M, and[P9] ARI Standard 340/360–2000. After reviewing and considering all of the comments submitted regarding the proposed alternate test procedure, DOE believes that the proposed alternate test procedure, with the clarifications discussed above, should be adopted. DOE will also consider applying the same alternate test procedure to similar waivers for residential and commercial central air conditioners and heat pumps.

*MEUS Waiver for R22 Products*

In the previous paragraph, DOE stated its intention to consider applying the alternate test procedure to similar waivers. Such a similar waiver was granted to MEUS for its R22 CITY MULTI VRFZ products on August 27, 2004 (the ''2004 Waiver'', see footnote 7). As discussed previously, the R22 products are quite similar to the R410A products that are the subject of this waiver. Therefore, today's notice amends the 2004 Waiver to prohibit MEUS from making energy efficiency representations regarding its R22 CITY MULTI products unless such representations are made consistent with the provisions of the alternate test procedure.

DOE consulted with the Federal Trade Commission (''FTC'') concerning the MEUS petition. The FTC did not have any objections to the issuance of the waiver to MEUS. Thus, DOE is granting MEUS's petition.

*Conclusion*

After careful consideration of all the material that was submitted by MEUS, the comments received, the review by NIST, and consultation with the FTC, it is ordered that:

(1) The ''Petition for Waiver'' filed by Mitsubishi Electric and Electronics USA, Inc. (MEUS) (Case No. CAC–012) is hereby granted as set forth in the paragraphs below.

(2) MEUS shall not be required to test or rate its R410A CITY MULTI Variable Refrigerant Flow Zoning (''VRFZ'') products listed below on the basis of the currently applicable test procedures, but shall be required to test and rate such products according to the alternate test procedure as set forth in Paragraph (3):[16]

*CITY MULTI Variable Refrigerant Flow Zoning System R–2 Series Outdoor Equipment:*

- PURY–P72TGMU–*, 72,000 Btu/h 208/230–3–60 split-system variable-speed heat pump.

[11] *See* Comments submitted by Sanyo Fisher Company (Sanyo, No. 7), Samsung and Quietside (Samsung, No. 8), Daikin AC (Americas), Inc. (Daikin, No. 3), and Rheem Heating and Cooling (Rheem, No. 5).

[12] *See* Comments submitted by Sanyo Fisher Company, (Sanyo, No.7 at page 1) and Daikin AC (Americas), Inc., (Daikin, No. 3 at pages 1–2).

[13] *See* Comments submitted by Rheem Heating and Cooling, (Rheem, No. 5 at page 2).

[14] *See* Comments submitted by Rheem Heating and Cooling, (Rheem, No. 5 at page 2).

[15] *See* Comments submitted by Lennox International Inc., (Lennox, No. 6 at page 2).

[16] The * denotes engineering differences in the models.

• PURY–P96TGMU–*, 96,000 Btu/h 208/230–3–60 split–system variable-speed heat pump.

• PURY–P108TGMU–*, 108,000 Btu/h 208/230–3–60 split-system variable-speed heat pump.

• PURY–P126TGMU–*, 126,000 Btu/h, 208/230–3–60 split-system variable-speed heat pump.

• PURY–P144TGMU–*, 144,000 Btu/h, 208/230–3–60 split-system variable-speed heat pump.

• PURY–P168TGMU–*, 168,000 Btu/h, 208/230–3–60 split-system variable-speed heat pump.

• PURY–P192TGMU–*, 192,000 Btu/h, 208/230–3–60 split-system variable-speed heat pump.

• PURY–P204TGMU–*, 204,000 Btu/h, 208/230–3–60 split-system variable-speed heat pump.

• PURY–P216TGMU–*, 216,000 Btu/h, 208/230–3–60 split-system variable-speed heat pump.

• PURY–P234TGMU–*, 234,000 Btu/h, 208/230–3–60 split-system variable-speed heat pump.

*CITY MULTI Variable Refrigerant Flow Zoning System Y-Series Outdoor Equipment:*

• PUHY–P72TGMU–*, 72,000 Btu/h 208/230–3–60 split-system variable-speed heat pump.

• PUHY–P96TGMU–*, 96,000 Btu/h 208/230–3–60 split-system variable-speed heat pump.

• PUHY–P108TGMU–*, 108,000 Btu/h 208/230–3–60 split-system variable-speed heat pump.

• PUHY–P126TGMU–*, 126,000 Btu/h, 208/230–3–60 split-system variable-speed heat pump.

• PUHY–P144TGMU–*, 144,000 Btu/h, 208/230–3–60 split-system variable-speed heat pump.

• PUHY–P168TGMU–*, 168,000 Btu/h, 208/230–3–60 split-system variable-speed heat pump.

• PUHY–P192TGMU–*, 192,000 Btu/h, 208/230–3–60 split-system variable-speed heat pump.

• PUHY–P204TGMU–*, 204,000 Btu/h, 208/230–3–60 split-system variable-speed heat pump

• PUHY–P216TGMU–*, 216,000 Btu/h, 208/230–3–60 split–system variable-speed heat pump.

• PUHY–P234TGMU–*, 234,000 Btu/h, 208/230–3–60 split-system variable-speed heat pump.

*CITY MULTI Variable Refrigerant Flow Zoning System S-Series Outdoor Equipment:*

• PUMY–P48NHMU–*, 48,000 Btu/h, 208/230–1–60 split-system variable-speed heat pump

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

• P*FY models, ranging from 6,000 to 96,000 Btu/h, 208/230–1–60 split-system variable-capacity air conditioner or heat pump.

• PCFY Series—Ceiling Suspended—PCFY–P12/18/24/30/36***–*.

• PDFY Series—Ceiling Concealed Ducted—PDFY–P06/08/12/15/18/24/30/36/48***–*.

• PEFY Series—Ceiling Concealed Ducted (Low Profile)—PEFY–P06/08/12***–*.

• PEFY Series—Ceiling Concealed Ducted (Alternate High Static Option)—PEFY–P15/18/24/27/30/36/48/54/72/96***–*.

• PEFY–F Series—Ceiling Concealed Ducted (100% OA Option)—PEFY–P30/54/72/96***—*.

• PFFY Series—Floor Standing (Concealed)—PFFY–P06/08/12/15/18/24***–*.

• PFFY Series—Floor Standing (Exposed)—PFFY–P06/08/12/15/18/24***–*.

• PKFY Series—Wall-Mounted—PKFY–P06/08/12/18/24/30***–*.

• PLFY Series—4-Way Airflow Ceiling Cassette—PLFY–P12/18/24/30/36***–*.

• PMFY Series—1-Way Airflow Ceiling Cassette—PMFY–P06/08/12/15[MR12]***–*.

(3) Alternate test procedure.

(A) MEUS shall be required to test the products listed in Paragraph (2) above according to those test procedures for central air conditioners and heat pumps prescribed by DOE at 10 CFR Parts 430 and 431, except that:

(i) For products covered by 10 CFR Part 430 (consumer products), MEUS shall not be required to comply with: (1) The first sentence in 10 CFR 430.24(m)(2), which refers to ''that combination manufactured by the condensing unit manufacturer likely to have the highest volume of retail sales;'' and (2) the third sentence in 10 CFR 430(m)(2) and the provisions of 10 CFR 430(m)(2)(i) and (ii). Instead of testing the combinations likely to have the highest volume of retail sales, MEUS may test a ''tested combination'' selected in accordance with the provisions of subparagraph (B) of this paragraph. Additionally, instead of following the provisions of 10 CFR 430(m)(2)(i) and (ii) for every other system combination using the same outdoor unit as the tested combination, MEUS shall make representations concerning the R410A CITY MULTI products covered in this waiver according to the provisions of subparagraph (C) below.

(ii) For products covered by 10 CFR Part 430 (consumer products), MEUS shall be required to comply with 10 CFR 430 Appendix M as amended in accordance with designated changes that are listed in the July 20, 2006 **Federal Register** Notice. 71 FR 41320, July 20, 2006. These designated changes are with respect to the following test procedure sections: 2.1, 2.2.3, 2.4.1, 3.2.4 (including Table 6), 3.6.4 (including Table 12), 4.1.4.2, and 4.2.4.2.

(iii) For products covered by 10 CFR Part 431 (commercial products), 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 R410A CITY MULTI 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 2 and 5 indoor units.

(ii) The indoor units shall—

(a) Represent the highest sales volume type models;

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

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

(d) Have a fan speed that is consistent with the manufacturer's specifications; and

(e) All have the same external static pressure[MR15].

(C) Representations. MEUS may make representations about the energy efficiency of CITY MULTI VRFZ products, for compliance, marketing, or other purposes, only to the extent that such representations are made consistent with the provisions outlined below:

(i) For CITY MULTI VRFZ combinations tested in accordance with this alternate test procedure, MEUS may make representations based on these test results.

(ii) For CITY MULTI VRFZ combinations that are not tested, MEUS may make representations which are 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 (''ARM'') approved by DOE.

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

(4) The waiver granted for MEUS's R22 CITY MULTI VRFZ products on August 27, 2004 [17] is hereby amended to prohibit MEUS from making energy efficiency representations regarding its R22 CITY MULTI products unless such representations are made consistent with the provisions set forth in Paragraph (3) above.

(5) This waiver shall remain in effect from the date of issuance of this Order until DOE prescribes final test procedures appropriate to the model series manufactured by MEUS and listed above.

(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.

Issued in Washington, DC, on April 2, 2007.

**Alexander A. Karsner,**

*Assistant Secretary, Energy Efficiency and Renewable Energy.*

[FR Doc. E7–6608 Filed 4–6–07; 8:45 am]

**BILLING CODE 6450–01–P**

[17] 71 FR 14858 (March 24, 2006).

## DEPARTMENT OF ENERGY

### Office of Energy Efficiency and Renewable Energy

### 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]

**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:** Today's notice publishes a Petition for Waiver from Mitsubishi Electric and Electronics USA, Inc. (MEUS). This Petition for Waiver (hereafter ''MEUS Petition'') requests a waiver of the Department of Energy (''DOE'') test procedures applicable to commercial package water source heat pumps. DOE is soliciting comments, data, and information with respect to the MEUS Petition. Today's notice also grants an Interim Waiver to MEUS, with an alternate test procedure, from the existing DOE test procedure applicable to commercial package water source heat pumps.

**DATES:** DOE will accept comments, data, and information regarding this Petition for Waiver until, but no later than May 9, 2007.

**ADDRESSES:** Please submit comments, identified by case number [CAC–015], by any of the following methods:

- *Mail:* Ms. Brenda Edwards-Jones, U.S. Department of Energy, Building Technologies Program, Mailstop EE–2J, Forrestal Building, 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-Jones, U.S. Department of Energy, Building Technologies Program, Room 1J–018, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585–0121.
- *E-mail: Michael.raymond@ee.doe.gov*. Include either the case number [CAC–015], and/or ''MEUS Petition'' in the subject line of the message.
- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.

*Instructions:* All submissions received must include the agency name and case number for this proceeding. Submit electronic comments in WordPerfect, Microsoft Word, PDF, or text (ASCII) file format and avoid the use of special characters or any form of encryption. Wherever possible, include the electronic signature of the author. Absent an electronic signature, comments submitted electronically must be followed and authenticated by submitting the signed original paper document. DOE does not accept telefacsimiles (faxes). Any person submitting written comments must also send a copy of such comments to the petitioner. 10 CFR 431.401(d)(2). The name and address of the petitioner of today's notice 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.

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.

*Docket:* For access to the docket to read the background documents relevant to this matter, go to the U.S. Department of Energy, Forrestal Building, Room 1J–018 (Resource Room of the Building Technologies Program), 1000 Independence Avenue, SW., Washington, DC, (202) 586–2945, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Available documents include the following items: this notice; public comments received; the Petition for Waiver and Application for Interim Waiver; prior Department rulemakings regarding commercial central air conditioners and heat pumps; the prior MEUS Petition for Waiver, DOE's notice of the prior MEUS Petition for Waiver and the DOE Decision and Order (D&O) regarding the prior MEUS Petition, which is being published today. Please call Ms. Brenda Edwards-Jones at the above telephone number for additional information regarding visiting the Resource Room. Please note: DOE's Freedom of Information Reading Room (formerly Room 1E–190 at the Forrestal Building) is no longer housing rulemaking materials.

**FOR FURTHER INFORMATION CONTACT:** Dr. Michael G. Raymond, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, Mail Stop EE–2J, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585–0121, (202) 586–9611; e-mail: *Michael.Raymond.ee.doe.gov*; or Francine Pinto, Esq., U.S. Department of Energy, Office of General Counsel, Mail Stop GC–72, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585–0103, (202) 586–9507; e-mail: *Francine.Pinto@hq.doe.gov*.

**SUPPLEMENTARY INFORMATION:**

I. Background and Authority
II. Petition for Waiver
III. Application for Interim Waiver
IV. Alternate Test Procedure
V. Summary and Request for Comments

### I. Background and Authority

Title III of the Energy Policy and Conservation Act (EPCA) sets forth a