

12.47-kilovolt transmission line; and (6) appurtenant facilities. The project would have an estimated annual generation of 3,000 megawatt-hours.

*Applicant Contact:* Hoon Won, 275 River Road, P.O. Box 202, Woolwich, ME 04579; (207) 443-9747.

*FERC Contact:* Brandon Cherry, (202) 502-8328.

*Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications:* 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at <http://www.ferc.gov/docs-filing/efiling.asp>. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at <http://www.ferc.gov/docs-filing/ecomment.asp>. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and seven copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

More information about this project, including a copy of the application, can be viewed or printed on the "eLibrary" link of Commission's Web site at <http://www.ferc.gov/docs-filing/elibrary.asp>. Enter the docket number (P-13811) in the docket number field to access the document. For assistance, contact FERC Online Support.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. 2010-25254 Filed 10-6-10; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Office of Energy Efficiency and Renewable Energy

[Case No. CAC-028]

#### Energy Conservation Program for Certain Industrial Equipment: Publication of the Petition for Waiver From Daikin AC (Americas), Inc. and Granting of the Application for Interim Waiver From the Department of Energy Residential Central Air Conditioner and Heat Pump Test Procedure

**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:** This notice announces receipt of and publishes a petition for waiver from Daikin AC (Americas), Inc. (Daikin). The petition for waiver (hereafter "Daikin Petition") requests a waiver from the U.S. Department of Energy (DOE) test procedure applicable to residential central air conditioners and heat pumps. The waiver request is specific to the Daikin Altherma air-to-water heat pump with integrated domestic water heating. Through this document, DOE: Solicits comments, data, and information with respect to the Daikin Petition; and grants an interim waiver to Daikin from the applicable DOE test procedure for the subject residential central air conditioning heat pump.

**DATES:** DOE will accept comments, data, and information with respect to the Daikin Petition until, but no later than November 8, 2010.

**ADDRESSES:** You may submit comments, identified by case number "CAC-028," by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *E-mail:*  
*AS Waiver Requests@ee.doe.gov*. Include "CAC-028" in the subject line of the message.

- *Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE-2J/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, U.S. Department of Energy, Building Technologies Program, 950 L'Enfant Plaza, SW., Suite 600, Washington, DC 20024. Please submit one signed original paper copy.

*Instructions:* All submissions received should include the agency name and case number for this proceeding. Submit electronic comments in WordPerfect, Microsoft Word, Portable Document Format (PDF), or text (American Standard Code for Information Interchange (ASCII)) file format and avoid the use of special characters or any form of encryption. Wherever possible, include the electronic signature of the author. DOE does not accept telefacsimiles (faxes).

Any person submitting written comments must also send a copy of such comments to the petitioner, pursuant to Title 10 of the Code of Federal Regulations (10 CFR) 430.27(d). The contact information for the petitioner is: Mr. Lee Smith, Assistant Vice President—Residential Solutions, Daikin AC (Americas), Inc., 1645 Wallace Drive, Suite 110, Carrollton, Texas 75006.

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 review the background documents relevant to this matter, you may visit the U.S. Department of Energy, 950 L'Enfant Plaza, SW., (Resource Room of the Building Technologies Program), Washington, DC 20024; (202) 586-2945, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Available documents include the following items: (1) This notice; (2) public comments received; (3) the petition for waiver and application for interim waiver; and (4) prior DOE rulemakings regarding similar central air conditioning and heat pump equipment. Please call Ms. Brenda Edwards at the above telephone number for additional information regarding visiting the Resource Room.

**FOR FURTHER INFORMATION CONTACT:** Dr. Michael G. Raymond, U.S. Department of Energy, Building Technologies Program, Mail Stop 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. Elizabeth Kohl, U.S. Department of Energy, Office of the General Counsel, Mail Stop GC-71, Forrestal Building,

1000 Independence Avenue, SW.,  
Washington, DC 20585-0103.  
Telephone: (202) 586-7796. E-mail:  
[Elizabeth.Kohl@hq.doe.gov](mailto:Elizabeth.Kohl@hq.doe.gov).

#### SUPPLEMENTARY INFORMATION:

### I. Background and Authority

Title III of the Energy Policy and Conservation Act, as amended (“EPCA”) sets forth a variety of provisions concerning energy efficiency. Part A of Title III provides for the “Energy Conservation Program for Consumer Products Other Than Automobiles.” (42 U.S.C. 6291–6309). Part A includes definitions, test procedures, labeling provisions, energy conservation standards, and the authority to require information and reports from manufacturers. Further, Part A authorizes the Secretary of Energy to prescribe test procedures that are reasonably designed to produce results which measure energy efficiency, energy use, or estimated operating costs, and that are not unduly burdensome to conduct. (42 U.S.C. 6293(b)(3)). The test procedure for residential central air conditioners is contained in 10 CFR part 430, subpart B, appendix M.

The regulations set forth in 10 CFR 430.27 contain provisions that enable a person to seek a waiver from the test procedure requirements for covered consumer products. A waiver will be granted by the Assistant Secretary for Energy Efficiency and Renewable Energy (the Assistant Secretary) if it is determined that the basic model for which the petition for waiver was submitted contains one or more design characteristics that prevents testing of the basic model according to the prescribed test procedures, or if the prescribed test procedures may 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(l). 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 430.27(b)(1)(iii). The Assistant Secretary may grant the waiver subject to conditions, including adherence to alternate test procedures. 10 CFR 430.27(l). Waivers remain in effect pursuant to the provisions of 10 CFR 430.27(m).

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)). 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 additionally 180 days, if necessary. (10 CFR 430.27(h)).

### II. Petition for Waiver

On August 27, 2009, Daikin filed an application for interim waiver and a petition for waiver for its Altherma products from the test procedures at 10 CFR part 430, subpart B, appendix M, which apply to residential central air conditioners and heat pumps. DOE granted Daikin an interim waiver and published its petition for waiver on December 15, 2009. (74 FR 66319) DOE published a **Federal Register** notice granting Daikin’s waiver on June 18, 2010. (75 FR 34731) On July 29, 2010, Daikin filed the instant petition for waiver. The basic models covered by this petition differ from the models covered by the previous Altherma waiver only in that these models have different capacities in the same capacity range.

The Daikin Altherma system consists of an air-to-water heat pump providing hydronic heating and cooling with the added ability to provide domestic hot water functions. It operates either as a split system with the compressor unit outside and the hydronic components in an inside unit, or as a single package configuration where all system components are combined in a single outdoor unit. In both the single package and the split system configurations, the system can include a domestic hot water supply tank that is located inside the unit.

The test method for central air conditioners and heat pumps contained in 10 CFR subpart B, appendix M does not include any provisions to account for the operational characteristics of an air-to-water heat pump with an integrated domestic hot water component. The domestic hot water portion of the Daikin Altherma system is an integral component of the system, and it cannot operate independently. The applicable DOE test method does not account for the Daikin Altherma system’s energy performance because the test method does not accurately evaluate the integrated domestic hot water portion of the system, nor does it have any provisions for air-to-water heat pumps. Daikin proposes using the European standards that are used for testing and rating the Altherma products in Europe. The test procedures are EN 14511 “Air conditioners, liquid chilling packages and heat pumps with electrically driven compressors for space heating and cooling” and EN

15316 “Heating systems in buildings—Methods for calculation of system energy requirements and system efficiencies”. Daikin did not petition for including the performance of the combined cooling and hot water functions in the waiver.

### III. Application for Interim Waiver

In addition to its petition for waiver submitted on July 29, 2010, Daikin submitted to DOE an application for interim waiver. DOE determined that Daikin’s application for interim waiver does not provide sufficient market, equipment price, shipments, and other manufacturer impact information to permit DOE to evaluate the economic hardship Daikin might experience absent a favorable determination on its application for interim waiver. However, DOE understands that absent an interim waiver, Daikin’s products would not otherwise be tested and rated for energy consumption on a comparable basis with equivalent products where DOE previously granted waivers. Furthermore, DOE has determined that it appears likely that Daikin’s Petition for Waiver will be granted and that is desirable for public policy reasons to grant Daikin immediate relief pending a determination on the petition for waiver. In those instances where the likely success of the petition for waiver has been demonstrated, based upon DOE having granted a waiver for similar product designs, it is in the public interest to have similar products tested and rated for energy consumption on a comparable basis. DOE has previously granted waivers to Carrier (55 FR 13607, April 11, 1990) and Nordyne (61 FR 11395, March 20, 1996) for comparable heat pumps with integrated domestic water heating. DOE granted Daikin an interim waiver and published Daikin’s petition for waiver for nearly identical Altherma products on December 15, 2009. (74 FR 66319). DOE granted Daikin’s waiver on June 18, 2010. (75 FR 34731).

Thus, DOE has determined that it is likely that Daikin’s petition for waiver will be granted for its new Altherma models. Therefore, *it is ordered that:*

The Application for interim waiver filed by Daikin is hereby granted for Daikin’s Altherma heat pumps, subject to the specifications and conditions below.

1. Daikin shall not be required to test or rate its Altherma heat pump products on the basis of the test procedure under 10 CFR part 430 subpart B, appendix M.

2. Daikin shall be required to test and rate its Altherma heat pump products according to the alternate test procedure

as set forth in section IV, “Alternate test procedure.”

The interim waiver applies to the following basic model groups:

Type	Description	U.S. model name	E.U. equivalent model name
Split Altherma .....	OD Unit (Split, 1.5-Ton or 6kW) .....	ERLQ018BAVJU .....	ERLQ006BAV3
	OD Unit (Split, 2.0-Ton or 7kW) .....	ERLQ024BAVJU .....	ERLQ007BAV3
	OD Unit (Split, 2.5-Ton or 8kW) .....	ERLQ030BAVJU .....	ERLQ008BAV3
Hydrobox .....	HB (Heating Only, BUH 3kW) .....	EKHBH030BA3VJU .....	EKHBH008BA3V3
	HB (Heating Only, BUH 6kW) .....	EKHBH030BA6VJU .....	EKHBH008BA6V3
	HB (Heat Pump, BUH 3kW) .....	EKHBX030BA3VJU .....	EKHBX008BA3V3
	HB (Heat Pump, BUH 6kW) .....	EKHBX030BA6VJU .....	EKHBX008BA6V3
DHW .....	Hot Water Tank (50 Gallon or 200L) .....	EKHWS050BA3VJU .....	EKHWS200B3V3
	Hot Water Tank (80 Gallon or 300L) .....	EKHWS080BA3VJU .....	EKHWS300B3V3
Options .....	Digital I/O PCB .....	EKRP1HBAAU .....	EKRP1HBAA
	Solar Pump Kit .....	EKSOLHWBAVJU .....	EKSOLHAV1
	Wired Room Thermostat .....	EKRTWA .....	EKRTWA
	Condensate Kit .....	EKHBDP .....	EKHBDP
Type .....	Description .....	U.S. Model Name .....	E.U. Equivalent Model Name
Split Altherma .....	OD Unit (Split, 1.5-Ton or 6kW) .....	ERLQ018BAVJU .....	ERLQ006BAV3
	OD Unit (Split, 2.0-Ton or 7kW) .....	ERLQ024BAVJU .....	ERLQ007BAV3
Hydrobox .....	OD Unit (Split, 2.5-Ton or 8kW) .....	ERLQ030BAVJU .....	ERLQ008BAV3
	HB (Heating Only, BUH 3kW) .....	EKHBH030BA3VJU .....	EKHBH008BA3V3
	HB (Heating Only, BUH 6kW) .....	EKHBH030BA6VJU .....	EKHBH008BA6V3

This interim waiver is conditioned upon the presumed validity of statements, representations, and documents provided by the petitioner. DOE may revoke or modify this interim waiver at any time upon a determination that the factual basis underlying the petition for waiver is incorrect, or upon a determination that the results from the alternate test procedure are unrepresentative of the basic models’ true energy consumption characteristics.

**IV. Alternate Test Procedure**

DOE is not aware of an alternate test procedure that is applicable within the United States to test and rate the performance of air-to-water heat pump systems that provide heating and that can also perform domestic hot water and cooling functions such as Daikin’s Altherma. However, Daikin Europe N.V. (DENV) is currently marketing Daikin Altherma systems in Europe, using European Standards. Daikin shall be required to test and rate its Altherma heat pumps as DOE ordered in its June 18, 2010, Daikin Altherma decision and order using these European Standards as follows:

(1) Full Load Performance and Efficiency—The Daikin Altherma shall be tested and rated according to European Standard EN 14511, “Air conditioners, liquid chilling packages and heat pumps with electrically driven compressors for space heating and cooling,” except that the test operating and test condition tolerances in Tables 7, 13, and 15 of the DOE test procedure in 10 CFR part 430, subpart B, Appendix M shall apply. Daikin shall rate the Altherma full load heating and

cooling performance (not including the DHW contribution) using coefficient of performance (COP) and energy efficiency ratio (EER).

(2) The European Standard EN 14511 applies only to testing for COP and EER and does not supersede any DOE requirements in 10 CFR 430.24.

Daikin may make representations about the energy use of its Altherma heat pump products for compliance, marketing, or other purposes only to the extent that such products have been tested in accordance with the provisions outlined above, and such representations fairly disclose the results of such testing. Daikin may not make representations of annual operating cost, or any parameters other than COP and EER for the Altherma’s space heating and space cooling functions, respectively.

**V. Summary and Request for Comments**

Through today’s notice, DOE announces receipt of the Daikin petition for waiver from the test procedures applicable to Daikin’s Altherma heat pump products, and for the reasons articulated above, DOE grants Daikin an interim waiver from those procedures. As part of this notice, DOE is publishing Daikin’s petition for waiver in its entirety. The petition contains no confidential information. Furthermore, today’s notice includes an alternate test procedure that Daikin is required to follow as a condition of its interim waiver and that DOE is considering including in its subsequent Decision and Order. In this alternate test procedure, DOE prescribes the European test procedure described above to measure the full load COP and EER to

characterize the Altherma’s heating and cooling performance.

DOE is interested in receiving comments on the issues addressed in this notice. Pursuant to 10 CFR 430.27(d), any person submitting written comments must also send a copy of such comments to the petitioner, whose contact information is included in the section entitled **ADDRESSES** section above.

Issued in Washington, DC, on September 30, 2010.

**Cathy Zoi,**

*Assistant Secretary, Energy Efficiency and Renewable Energy.*

July 29, 2010

Ms. Catherine Zoi

Assistant Secretary for Energy Efficiency and Renewable Energy

U.S. Department of Energy  
1000 Independence Ave., SW  
Washington, DC 20585-0121

Re: Petition for Waiver of Test Procedure

Dear Assistant Secretary Zoi: Daikin AC (Americas) Inc. (DACA) respectfully petitions the Department of Energy (DOE) pursuant to 10 C.F.R. § 430.27(a)(1) (2009) for a waiver of the test procedures applicable to central air conditioners and heat pumps, as established in 10 C.F.R. Part 430, Subpart B, Appendix M (2009),<sup>1</sup> for the Daikin Altherma system, an air to water heat pump system that performs a hydronic heating function but can also be configured to serve domestic hot water requirements and also cooling as necessary. The particular systems and the specific models for which DACA requests this waiver in the Daikin Altherma product class are listed below in this Petition. DACA seeks a waiver from the existing central air conditioner and central air conditioning heat

<sup>1</sup>Detailed citations to the test procedures for which DACA is requesting a waiver are included on page 3 of this petition.

pump test procedure for the Daikin Altherma line of air to water heat pumps because the integrated water-heating feature causes the prescribed test procedures to evaluate the Daikin Altherma in a manner that is unrepresentative of the system's true energy consumption characteristics. We are simultaneously requesting an interim waiver for the same systems pursuant to 10 C.F.R. § 430.27(a)(2) (2009).

**General Characteristics of Daikin Altherma**

The Daikin Altherma system has the following characteristics and applications:

- Daikin Altherma is an air to water heat pump that performs a space heating function and can be configured to provide Domestic Hot Water and additionally include the provision for space cooling.
- Daikin Altherma can be installed as a two-unit split system consisting of an outdoor compressor unit and an indoor unit or "Hydrobox" containing the hydronic parts.

Alternatively, the system can be installed as a monobloc system with a single outdoor unit combining the compressor and hydronic parts.

- The split system includes R-410A refrigerant piping between the outdoor unit and the Hydrobox, and water piping between the indoor unit and the indoor heating appliances. The monobloc system includes water piping between the outdoor unit and the heat emitters/DHW tank.
- Both the Daikin Altherma monobloc system and split system can be combined with under floor heating, fan coil units, and low temperature radiators.
- Depending on the model and the conditions, a Daikin Altherma air/water heat pump delivers between 3 and 5 kWh of usable heat for every kWh of electricity used.
- The Daikin Altherma system heat pump compressor incorporates inverter technology, with an integrated frequency-converter that adjusts the rotational speed of the

compressor to meet the heating or cooling demand. Therefore, the system seldom operates at full capacity.

- The domestic hot water tank includes a supplemental electrical heating element to boost the Domestic Hot Water temperature if necessary.
- The Altherma system also can be tied into a solar thermal collector system that supports the production of domestic hot water.
- The Hydrobox for the split system and contained in the outdoor unit in the monobloc system both include a built-in electric back-up heater to provide additional heating during extremely cold weather.

**Particular Basic Models for Which DACA Requests a Waiver**

DACA requests a waiver from the test procedures for the following basic model groups:

Type	Description	U.S. model name	E.U. equivalent model name
Split Altherma .....	OD Unit (Split, 1.5-Ton or 6kW) .....	ERLQ018BAVJU	ERLQ006BAV3
	OD Unit (Split, 2.0-Ton or 7kW) .....	ERLQ024BAVJU	ERLQ007BAV3
	OD Unit (Split, 2.5-Ton or 8kW) .....	ERLQ030BAVJU	ERLQ008BAV3
Hydrobox .....	HB (Heating Only, BUH 3kW) .....	EKHBH030BA3VJU	EKHBH008BA3V3
	HB (Heating Only, BUH 6kW) .....	EKHBH030BA6VJU	EKHBH008BA6V3
	HB (Heat Pump, BUH 3kW) .....	EKHBX030BA3VJU	EKHBX008BA3V3
	HB (Heat Pump, BUH 6kW) .....	EKHBX030BA6VJU	EKHBX008BA6V3
DHW .....	Hot Water Tank (50 Gallon or 200L) .....	EKHWS050BA3VJU	EKHWS200B3V3
	Hot Water Tank (80 Gallon or 300L) .....	EKHWS080BA3VJU	EKHWS300B3V3
Options .....	Digital I/O PCB .....	EKRP1HBAAU	EKRP1HBAA
	Solar Pump Kit .....	EKSOLHWBAVJU	EKSOLHAV1
	Wired Room Thermostat .....	EKRTWA	EKRTWA
	Condensate Kit .....	EKHBDP	EKHBDP

*Daikin Altherma System Characteristics Constituting the Grounds for DACA's Petition*

The Daikin Altherma system consists of an air to water heat pump providing hydronic heating with the added availability to provide domestic hot water and cooling functions that operates either as a split system with the compressor unit outside and the hydronic components in an inside unit, or as a monobloc configuration where all system components are combined in a single outdoor unit. In both the monobloc and the split system configurations, the system can include a domestic hot water supply tank that is located inside.

The test method for central air conditioners and heat pumps contained in 10 C.F.R. Part 430, Subpart B, Appendix M does not include any provision to account for the operation characteristics of an Air to Water heat pump of the function and energy consumption characteristics of a domestic hot water component that is integrated into an air to water heat pump system. The domestic hot water tank portion of the Daikin Altherma system is a regular element of the complete system, and it cannot operate independent of the rest of the system. Therefore, the currently applicable test method does not accurately account for the Daikin Altherma system's energy performance because the test method does not accurately evaluate the integrated domestic hot water portion of the system.

Daikin Altherma products share the design characteristics and basic features of three other products for which DOE has previously granted waivers. One product was Carrier's Hydrotech system,<sup>2</sup> and the other product was Nordyne's Powermiser system.<sup>3</sup> The Carrier and Nordyne systems that previously received waivers from DOE were both air source heat pump systems providing both heating and cooling functions. Both of these systems also included a domestic hot water supply tank as an integral part of the system. More recently, DOE granted an interim waiver for another series of Altherma models, which share the same design features as the equipment covered by this waiver petition, but which have different capacities.<sup>4</sup> The same energy consumption calculation constraints apply equally to all of these products.

DOE stated the following in its March 20, 1996 approval notice issuing the Nordyne: "DOE agrees [with Nordyne] that, using the current central air conditioning test procedure, the company cannot account for the energy savings associated with integrated water heating." 61 Fed. Reg. at 11,396.

Based on this conclusion, the DOE granted the Nordyne Powermiser system waiver petition (Id.), and based on a similar analysis

DOE granted the Carrier Hydrotech system waiver petition. (55 Fed. Reg. at 13,607).

Based on the same rationale, the DOE granted Daikin's previous Altherma interim waiver request (74 Fed. Reg. at 66,320).

The rationale for DACA's Petition for a waiver from testing standards for the Daikin Altherma system is identical to Daikin's previous Altherma Petition, and is virtually identical to the basis for the other manufacturers' previous requests for waivers noted above. DACA requests that DOE apply the same rationale to DACA's Petition for waiver for the Daikin Altherma system that DOE used to grant the previous Daikin Altherma interim waiver petition, and the Carrier and Nordyne waiver petitions for their similar systems.

*Specific Testing Requirements Sought To Be Waived*

The test procedures from which DACA is requesting a waiver are contained in 10 C.F.R. Part 430, Subpart B, Appendix M, which is incorporated by reference into 10 C.F.R. § 430.23(m), and which is applicable to central air conditioner and heat pump equipment with a capacity of <65,000 Btu/hr.

*Detailed Discussion of Need for Requested Waiver*

Although the capacity of the Daikin Altherma product class is within the scope of 10 C.F.R. Part 430, Subpart B, Appendix M, the design characteristics of the Daikin

<sup>2</sup> 55 Fed. Reg. 13,607 (April 11, 1990).

<sup>3</sup> 61 Fed. Reg. 11,395 (March 20, 1996).

<sup>4</sup> 74 Fed. Reg. 66,319 (December 19, 2009).

Altherma product class prevent testing of the system according to the prescribed test procedures in a manner that represents the system's true energy consumption characteristics. Specifically, application of the existing prescribed test method does not define Air to Water Heat Pump operating characteristics and also cannot account for energy savings associated with the system's integrated water heating.

The absence of a waiver from the required testing procedure will restrict the availability to consumers in the United States of the Daikin Altherma system's energy savings benefits that result from integrating domestic hot water production into the system.

#### **Manufacturers of Other Basic Models Incorporating Similar Design Characteristics**

DACA is aware of no other manufacturers that currently produce products incorporating similar design characteristics to the Daikin Altherma system in the United States market.<sup>5</sup>

#### **Alternative Test Procedures**

To our knowledge, there is no alternative test procedure that is applicable within the United States to test accurately and to rate the performance of air to water heat pump systems that provide both heating and that can also serve domestic hot water and cooling functions such as Daikin Altherma. However, DACA's sister division, Daikin Europe N.V. (DENV) is currently marketing Daikin Altherma systems in Europe. To address the local EU requirements regarding testing and rating of the Daikin Altherma system, DENV has approached the matter in two ways as follows:

##### **Full Load Performance and Efficiency:**

Daikin Altherma is tested and rated to EN14511

##### **Annual Performance and Efficiency:**

Daikin Altherma is rated to EN15316

Standard EN14511, Air conditioners, liquid chilling packages and heat pumps with electrically driven compressors for space heating and cooling, is an internationally recognized standard that is used throughout Europe.

Standard EN14511 is published in 4 sections and clearly defines Terms and Conditions (–1), Test Conditions (–2), Test Methods (–3) and Requirements (–4). The overall scope of the standard is stated in EN14511–1:2004(E), Section 1, Scope, which states that the standard:

Specifies the terms and definitions for the rating and performance of air and water cooled air conditioners, liquid chilling packages, air-to-air, water-to-air, air-to-water and water-to-water heat pumps with electrically driven compressors when used for space heating and/or cooling. This European Standard does not specifically apply to heat pumps for sanitary hot water, although certain definitions can be applied to these.

<sup>5</sup>DACA believes that Carrier is no longer marketing its Hydrotech system for which DOE previously granted a waiver, and DACA believes that Nordyne is no longer marketing its Powermiser system for which DOE also previously granted a waiver.

Standard EN14511, which is attached, provides the full criteria to establish full load performance ratings for Air to Water Heat Pump Systems.

Standard EN15316, Heating systems in buildings—Method for calculation of system energy requirements and system efficiencies, is an internationally recognized standard that is also used throughout Europe.

The portion of the standard that is relevant to Daikin Altherma is Standard EN15316–4–2, which is attached. A brief conceptual summary of Standard EN15316–4–2 follows:

The Scope of Standard EN15316–1 (Section 1) states that this standard “specifies the structure for calculation of energy use for space heating systems and domestic hot water systems in buildings.” The standard's calculation method enables the energy analysis of the various sub-systems of the heating system, “including control (emission, distribution, storage, generation), through determination of the system energy losses and the system performance factors. This performance analysis permits the comparison between sub-systems and makes it possible to monitor the impact of each sub-system on the energy performance of the building.” Id.

Under Section 4.2 of the Standard EN15316–1, the calculation period is established to evaluate the annual energy use of the space heating and domestic hot water system.

Pursuant to Section 4.3 of the Standard, the calculation methods in the standard determine operating conditions, such as heat demand and water temperatures, and energy performance for given operating conditions, including system thermal losses and recoverable losses.

The full attached Standard EN15316–4–2 provides the full energy calculation method used under the standard for seasonal performance of space heating and an integrated domestic hot water system. No methodology exists for determining the seasonal performance of space cooling and an integrated domestic hot water system, as the air to water heat pump systems are primarily focused as being a “heating” solution. Cooling is deemed as an added optional benefit.

DACA aims to utilize the performance and efficiency characteristics of the Daikin Altherma system as tested and determined by the EN testing and rating standards, as an alternate rating method for Daikin Altherma in lieu of an applicable U.S. testing and rating standard being available at this time. This utilization specifically means that DACA would promote the following characteristics:

##### **Full Load Heating Capacity and COP**

(Per EN Std 14511—Test Conditions and Methods defined in section 2 and section 3 of std 14511 respectively).

##### **Full Load Cooling Capacity and EER**

(Per EN Std 14511—Test Conditions and Methods defined in section 2 and section 3 of std 14511 respectively).

##### **Seasonal Performance Factor (SPF)**

(Per EN15316–4–2—Full energy calculation method is defined).

No representation will be made to any Seasonal Performance Factor for the cooling operation.

#### **Application for Interim Waiver**

DACA also hereby applies pursuant to 10 C.F.R. § 430.27(a)(2) for an interim waiver of the applicable test procedure requirements for the Daikin Altherma product class models listed above. The basis for DACA's Application for Interim Waiver follows.

DACA is likely to succeed in its Petition for Waiver because there is no reasonable argument that the test method contained in 10 C.F.R. Part 430, Subpart B, Appendix M can be accurately applied to the Daikin Altherma product class. As explained above in the DACA's Petition for Waiver, the design characteristics of the Daikin Altherma product class clearly prevent testing the Daikin Altherma system with the prescribed test procedures and obtaining a representative result of the system's true energy consumption characteristics.

The likelihood of DOE approving DACA's Petition for Waiver is supported by the DOE's history of approving previous waiver requests from other manufacturers for products that are similar to the Daikin Altherma product class, based on the same rationale offered by DACA in this Petition for Waiver.

Additionally, DACA is likely to suffer economic hardship and competitive disadvantage if DOE does not grant its interim waiver request. DACA is now preparing to introduce its Daikin Altherma product class in a matter of months. If we must wait for completion of the normal waiver consideration and issuance process, DACA will be forced to delay the opportunity to begin recouping through product sales its production and marketing costs associated with introducing the Daikin Altherma product class into the United States market.

DOE approval of DACA's interim waiver application is also supported by sound public policy reasons. As DOE stated in its January 7, 2008 approval of DACA's interim waiver for the VRV–WII product classes:

[I]n those instances where the likely success of the Petition for Waiver has been demonstrated, based upon DOE having granted a waiver for similar products design, it is in the public interest to have similar products tested and rated for energy consumption on a comparable basis.

73 Fed. Reg. at 1215. The Daikin Altherma product class will provide superior comfort to the end user, and will incorporate state of the art technology such as variable speed compressors and a solar kit to enhance the energy efficiency performance of the integrated domestic hot water production system component. The Daikin Altherma product class will introduce technologies that will increase system efficiency and reduce national energy consumption, and that will also offer a new level of comfort and control to end users.

DACA requests that DOE grant our Application for Interim Waiver so we can bring the new highly energy efficient technology represented by the Daikin Altherma product class to the market as soon as possible, thereby allowing the U.S. consumer to benefit from our high technology and high efficiency product.

**Confidential Information**

DACA makes no request to DOE for confidential treatment of any information contained in this Petition for Waiver and Application for Interim Waiver.

**Conclusion**

Daikin AC (Americas), Inc. respectfully requests DOE to grant its Petition for Waiver of the applicable test procedure to DACA for specified models of the Altherma system, and to grant its Application for Interim Waiver. DOE's failure to issue an interim waiver from test standards would cause significant economic hardship to DACA by preventing DACA from marketing these products even though DOE has previously granted a waiver to other products that were offered in the market with similar design characteristics.

We would be pleased to respond to any questions you may have regarding this Petition for Waiver and Application for Interim Waiver. Please contact me at 972-245-1510 or by email at: [Lee.smith@daikinac.com](mailto:Lee.smith@daikinac.com).

Sincerely,

Lee Smith

Assistant Vice President—Residential Solutions

Daikin AC (Americas), Inc.  
1645 Wallace Drive, Suite 110  
Carrollton, Texas 75006  
(Submitted in triplicate)

Encls: Copy of Daikin Altherma Brochure, Engineering Data, EN Testing & Rating Standards

[FR Doc. 2010-25302 Filed 10-6-10; 8:45 am]

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**DEPARTMENT OF ENERGY****Office of Energy Efficiency and Renewable Energy**

[Case No. DW-004]

**Energy Conservation Program for Consumer Products: Decision and Order Granting a Waiver to Whirlpool Corporation From the Department of Energy Residential Dishwasher Test Procedure**

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

**ACTION:** Decision and order.

**SUMMARY:** The U.S. Department of Energy (DOE) gives notice of the decision and order (Case No. DW-004) that grants to Whirlpool Corporation (Whirlpool) a waiver from the DOE dishwasher test procedure for certain basic models containing integrated or built-in water softeners. Under today's decision and order, Whirlpool shall be required to test and rate its dishwashers with integrated water softeners using an alternate test procedure that takes this technology into account when

measuring energy and water consumption.

**DATES:** This Decision and Order is effective October 7, 2010.

**FOR FURTHER INFORMATION CONTACT:** Dr. Michael G. Raymond, U.S. Department of Energy, Building Technologies Program, Mail Stop EE-2J, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585-0121. Telephone: (202) 586-9611. E-mail: [Michael.Raymond@ee.doe.gov](mailto:Michael.Raymond@ee.doe.gov).

Ms. Jennifer Tiedeman, U.S. Department of Energy, Office of the General Counsel, Mail Stop GC-71, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585-0103. Telephone: (202) 287-6111. E-mail: [Jennifer.Tiedeman@hq.doe.gov](mailto:Jennifer.Tiedeman@hq.doe.gov).

**SUPPLEMENTARY INFORMATION:** In accordance with Title 10 of the Code of Federal Regulations (10 CFR 430.27(l)), DOE gives notice of the issuance of its decision and order as set forth below. The decision and order grants Whirlpool a waiver from the applicable residential dishwasher test procedure in 10 CFR part 430, subpart B, appendix C for certain basic models of dishwashers with built-in or integrated water softeners, provided that Whirlpool tests and rates such products using the alternate test procedure described in this notice. Today's decision prohibits Whirlpool from making representations concerning the energy efficiency of these products unless the product has been tested consistent with the provisions and restrictions in the alternate test procedure set forth in the decision and order below, and the representations fairly disclose the test results. 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. 6293(c).

Issued in Washington, DC, on September 30, 2010.

**Cathy Zoi,**

*Assistant Secretary, Energy Efficiency and Renewable Energy.*

**Decision and Order**

*In the Matter of:* Whirlpool Corporation (Case No. DW-004).

**I. Background and Authority**

Title III of the Energy Policy and Conservation Act (EPCA) sets forth a variety of provisions concerning energy efficiency. Part A of Title III provides for the "Energy Conservation Program for Consumer Products Other Than Automobiles." 42 U.S.C. 6291-6309. Part A includes definitions, test procedures, labeling provisions, energy conservation standards, and the

authority to require information and reports from manufacturers. Further, Part A authorizes 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, and that are not unduly burdensome to conduct. 42 U.S.C. 6293(b)(3). The test procedure for residential dishwashers, the subject of today's notice, is contained in 10 CFR part 430, subpart B, appendix C.

DOE's regulations for covered products contain provisions allowing a person to seek a waiver for a particular basic model from the test procedure requirements for covered consumer products when (1) the petitioner's basic model for which the petition for waiver was submitted contains one or more design characteristics that prevent testing according to the prescribed test procedure, or (2) when prescribed test procedures may 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). Petitioners must include in their petition any alternate test procedures known to the petitioner to evaluate the basic model in a manner representative of its energy consumption characteristics. 10 CFR 430.27(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 430.27(l). Waivers remain in effect pursuant to the provisions of 10 CFR 430.27(m).

Any interested person who has submitted a petition for waiver may also file an application for interim waiver of the applicable test procedure requirements. 10 CFR 430.27(a)(2). The Assistant Secretary will grant an interim waiver request if it is determined that the applicant will experience economic hardship if the 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 430.27(g).

**II. Whirlpool's Petition for Waiver: Assertions and Determinations**

On March 16, 2010, Whirlpool filed a petition for waiver from the test procedure applicable to residential dishwashers set forth in 10 CFR Part 430, subpart B, appendix C. The products covered by the petition employ