

funds in any prior year. All eligible LEAs that need to submit an application to receive an SRSA grant award in a given year are highlighted in yellow on the SRSA eligibility spreadsheets, which are posted annually on the SRSA program Web site at <http://www2.ed.gov/programs/reapsrsa/eligibility.html>.

Under the regulations in 34 CFR 75.104(a), the Secretary makes grants only to an eligible party that submits an application. Given the limited purpose served by the application under the SRSA program, the Secretary considers the application requirement to be met if an LEA submitted an SRSA application for any prior year. In this circumstance, unless an LEA advises the Secretary by the application deadline that it is withdrawing its application, the Secretary deems the application that an LEA previously submitted to remain in effect for FY 2011 funding, and the LEA does not have to submit an additional application.

We intend to provide, by April 7, 2011, a list of LEAs eligible for FY 2011 funds on the Department's Web site at <http://www.ed.gov/programs/reapsrsa/eligibility.html>. The Web site will indicate which eligible LEAs must submit an electronic application to the Department to receive an FY 2011 SRSA grant award, and which eligible LEAs are considered already to have met the application requirement.

Eligible LEAs that need to submit an application in order to receive FY 2011 SRSA funds must do so electronically by the deadline established in this notice.

### Electronic Submission of Applications

An eligible LEA that is required to submit an application to receive FY 2011 SRSA funds must submit an electronic application by June 30, 2011, 4:30:00 p.m., Washington, DC time. If it submits its application after this deadline, the LEA will receive a grant award only to the extent that funds are available after the Department awards grants to other eligible LEAs under the program.

Submission of an electronic application involves the use of the Department's G5 system. You can access the electronic application for the SRSA Program at: <http://www.g5.gov>. When you access this site, you will receive specific instructions regarding the information to include in your application.

The hours of operation of the G5 Web site are 6:00 a.m. Monday until 7:00 p.m. Wednesday; and 6:00 a.m. Thursday until 8:00 p.m. Sunday, Washington, DC time. Please note that,

because of maintenance, the system is unavailable between 8:00 p.m. on Sundays and 6:00 a.m. on Mondays, and between 7:00 p.m. on Wednesdays and 6:00 a.m. on Thursdays, Washington, DC time. Any modifications to these hours are posted on the G5 Web site.

**Accessible Format:** Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (e.g., braille, large print, audiotape, or computer diskette) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

**Electronic Access to This Document:** You can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: <http://www.ed.gov/news/fedregister>. To use PDF you must have Adobe Acrobat Reader, which is available free at this site.

**Note:** The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: <http://www.gpoaccess.gov/nara/index.html>.

**Program Authority:** 20 U.S.C. 7345–7345b.

Dated: April 5, 2011.

**Thelma Meléndez de Santa Ana,**  
*Assistant Secretary for Elementary and Secondary Education.*

[FR Doc. 2011–8441 Filed 4–7–11; 8:45 am]

**BILLING CODE 4000–01–P**

## DEPARTMENT OF ENERGY

### Office of Energy Efficiency and Renewable Energy

[Case No. CAC–031]

#### Energy Conservation Program for Certain Industrial Equipment: Publication of the Petition for Waiver From Carrier Corporation and Granting of the Interim Waiver From the Department of Energy Commercial Package Air Conditioner and Heat Pump Test Procedures

**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 Carrier Corporation (Carrier). The

petition for waiver (hereafter “petition”) requests a waiver from the U.S. Department of Energy (DOE) test procedure applicable to commercial package air-source central air conditioners and heat pumps. The petition is specific to the Carrier variable capacity Super Modular Multi-System SMMSi (commercial) multi-split heat pumps. Through this document, DOE: (1) Solicits comments, data, and information with respect to the Carrier petition; and (2) announces the grant of an interim waiver to Carrier from the existing DOE test procedure for the subject commercial multi-split air conditioners and heat pumps.

**DATES:** DOE will accept comments, data, and information with respect to the Carrier petition until, but no later than May 9, 2011.

**ADDRESSES:** You may submit comments, identified by case number “CAC–031,” 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 the case number [CAC–031] in the subject line of the message.

- **Mail:** Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mail Stop 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.

**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 on 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 and waivers 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](mailto: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: [mailto:Elizabeth.Kohl@hq.doe.gov](mailto:mailto:Elizabeth.Kohl@hq.doe.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background and Authority

Title III of the Energy Policy and Conservation Act (EPCA) sets forth a variety of provisions concerning energy efficiency, including Part B of Title III, which establishes the "Energy Conservation Program for Consumer Products Other Than Automobiles." (42 U.S.C. 6291-6309) Part C of Title III provides for a similar energy efficiency program titled "Certain Industrial Equipment," which includes commercial air conditioning equipment, package boilers, water heaters, and other types of commercial equipment.<sup>1</sup> (42 U.S.C. 6311-6317)

Today's notice involves commercial equipment under Part C. Part C specifically includes definitions (42 U.S.C. 6311), test procedures (42 U.S.C. 6314), labeling provisions (42 U.S.C. 6315), energy conservation standards (42 U.S.C. 6313), and the authority to require information and reports from manufacturers (42 U.S.C. 6316). With respect to test procedures, Part C authorizes the Secretary of Energy (the Secretary) to prescribe test procedures that are reasonably designed to produce results that measure energy efficiency, energy use, and estimated annual operating costs, and that are not unduly burdensome to conduct. (42 U.S.C. 6314(a)(2))

For commercial package air-conditioning and heating equipment, EPCA provides that "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/IES Standard 90.1 and in effect on June 30, 1992." (42 U.S.C. 6314(a)(4)(A)) Under 42 U.S.C.

6314(a)(4)(B), the statute further directs the Secretary to amend the test procedure for a covered commercial product if the industry test procedure is amended, unless the Secretary determines, by rule and based on clear and convincing evidence, that such a modified test procedure does not meet the statutory criteria set forth in 42 U.S.C. 6314(a)(2) and (3).

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. Table 1 to Title 10 of the Code of Federal Regulations (10 CFR) 431.96 directs manufacturers of commercial package air conditioning and heating equipment to use the appropriate procedure when measuring energy efficiency of those products. The cooling capacities of Carrier's commercial SMMSi multi-split heat pump products at issue in the waiver petition filed by Carrier range from 72,000 Btu/h to 220,000 Btu/h. All of these products are covered by ARI Standard 340/360-2004, which includes products with capacities greater than 65,000 Btu/hour.

DOE's regulations for covered products permit a person to seek a waiver from the test procedure requirements for covered commercial equipment if at least one of the following conditions is met: (1) The petitioner's basic model contains one or more design characteristics that prevent testing according to the prescribed test procedures; or (2) 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 the petitioner 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 (Assistant Secretary) may grant a waiver subject to conditions, including adherence to alternate test procedures. 10 CFR 431.401(f)(4). Waivers remain in effect pursuant to the provisions of 10 CFR 431.401(g).

The waiver process also permits parties submitting 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 request if it is determined 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. It may be extended by DOE for an additional 180 days. 10 CFR 431.401(e)(4).

##### II. Petition for Waiver

On February 16, 2011, Carrier filed a petition for waiver from the test procedures at 10 CFR 431.96 applicable to commercial package air source central air conditioners and heat pumps, as well as an application for interim waiver. The capacities of the Carrier SMMSi multi-split heat pumps range from 72,000Btu/hto 220,000Btu/h. The applicable test procedure for the air-source heat pumps is ARI 340/360-2004. Manufacturers are directed to use these test procedures pursuant to Table 1 of 10 CFR 431.96.

Carrier seeks a waiver from the applicable test procedures under 10 CFR 431.96 on the grounds that its SMMSi multi-split heat pumps contain design characteristics that prevent testing according to the current DOE test procedures. Specifically, Carrier asserts that the two primary factors that prevent testing of its SMMSi multi-split variable speed products are the same factors stated in the waivers that DOE granted to Mitsubishi Electric & Electronics USA, Inc. (Mitsubishi) and other manufacturers for similar lines of commercial multi-split air-conditioning systems:

- Testing laboratories cannot test products with so many indoor units; and
- There are too many possible combinations of indoor and outdoor units to test.

Mitsubishi (69 FR 52660, August 27, 2004); Mitsubishi (72 FR 17528, April 9, 2007); Samsung (72 FR 71387, Dec. 17, 2007); Fujitsu (72 FR 71383, Dec. 17, 2007); Daikin (73 FR 39680, July 10, 2008); Daikin (74 FR 15955, April 8, 2009); Daikin (74 FR 16193, April 9, 2009); Daikin (74 FR 16373, April 10, 2009); Mitsubishi (74 FR 66311, 66315, December 15, 2009) and LG (74 FR 66330, December 15, 2009).

The SMMSi systems have operational characteristics similar to the commercial multi-split products manufactured by Mitsubishi, Samsung, Fujitsu and Daikin. As indicated above, DOE has already granted waivers for these products. The SMMSi system consists of

<sup>1</sup> applicable to its Super Modular Multi-System ("SMMSi") commercial Variable Refrigerant Flow ("VRF") multi-split systems. Carrier requests this waiver for the SMMSi systems because the basic design of VRF multi-split systems prevents testing or rating according to DOE's prescribed test procedures. Carrier also hereby requests an interim waiver for the same products pursuant to 10 CFR 431.401(a)(2).

multiple indoor units connected to an air-cooled outdoor unit. The indoor units for these products are available in a number of potential configurations, including the following: 4-way cassette, compact 4-way cassette, high-wall, slim ducted, medium static ducted, high static ducted, and ceiling. There are 7 unique outdoor models and 43 unique indoor models. A single outdoor model can be connected to up to 38 indoor units. According to Carrier, the various indoor and outdoor models can be connected in a multitude of configurations, with many thousands of possible combinations. Consequently, Carrier requested that DOE grant a waiver from the applicable test procedures for its SMMSi product designs until a suitable test method can be prescribed.

### III. Application for Interim Waiver

On February 16, 2011, Carrier also submitted an application for an interim waiver from the test procedures at 10 CFR 431.96 for its SMMSi equipment. DOE determined that Carrier'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 Carrier might experience absent a favorable determination on its application for an interim waiver. DOE understands, however, that if it did not issue an interim waiver, Carrier's products would not be tested and rated for energy consumption in the same manner as equivalent products for which DOE previously granted waivers. Furthermore, DOE has determined that it appears likely that Carrier's petition for waiver will be granted and that is desirable for public policy reasons to grant Carrier immediate relief pending a determination on the petition for waiver. DOE believes that it is likely Carrier's petition for waiver for the new SMMSi multi-split models will be granted because, as noted above, DOE has previously granted a number of waivers for similar product designs.<sup>2</sup> The two principal reasons supporting the grant of the previous waivers also apply to Carrier's SMMSi products: (1) Test laboratories cannot test products with so many indoor units; and (2) it is impractical to test so many combinations of indoor units with each outdoor unit. In addition, DOE believes

that similar products should be tested and rated for energy consumption on a comparable basis. For these same reasons, DOE also determined that it is desirable for public policy reasons to grant immediate relief pending a determination on the petition for waiver.

Therefore, *it is ordered that:*

The application for interim waiver filed by Carrier is hereby granted for Carrier's SMMSi multi-split heat pumps, subject to the specifications and conditions below.

1. Carrier shall not be required to test or rate its SMMSi commercial multi-split products on the basis of the existing test procedures under 10 CFR 431.96, which incorporates by reference ARI 340/360-2004.

2. Carrier shall be required to test and rate its SMMSi commercial multi-split products according to the alternate test procedure as set forth in section IV(3), "Alternate test procedure."

The interim waiver applies to the following basic model groups:

*Standard model outdoor units:*

MMY-MAP0724HT9UL, with a capacity of 72,000 Btu/hr  
 MMY-MAP0964HT9UL, with a capacity of 96,000 Btu/hr  
 MMY-MAP1144HT9UL, with a capacity of 114,000 Btu/hr  
 MMY-AP1444HT9UL, with a capacity of 144,000 Btu/hr  
 MMY-AP1684HT9UL, with a capacity of 168,000 Btu/hr  
 MMY-AP1924HT9UL, with a capacity of 192,000 Btu/hr  
 MMY-AP2284HT9UL, with a capacity of 220,000 Btu/hr

Indoor units, whose capacities range from 7,000 to 48,000 Btu/hr that are compatible with the outdoor units listed above:

4-way cassette

MMU-AP0182H2UL, MMU-AP0212H2UL, MMU-AP0242H2UL, MMU-AP0302H2UL, MMU-AP0362H2UL, and MMU-AP0422H2UL

Compact 4-way cassette

MMU-AP0071MH2UL, MMU-AP0091MH2UL, MMU-AP0121MH2UL, MMU-AP0151MH2UL, and MMU-AP0181MH2UL

Ceiling

MMC-AP0181H2UL, MMC-AP0241H2UL, MMC-AP0361H2UL, and MMC-AP0421H2UL

High-wall

MMK-AP0073H2UL, MMK-AP0093H2UL, MMK-AP0123H2UL, MMK-AP0153H2UL, MMK-AP0183H2UL, and MMK-AP0243H2UL

Slim ducted

MMD-AP0071SPH2UL, MMD-AP0091SPH2UL, MMD-AP0121SPH2UL, MMD-AP0151SPH2UL, and MMD-AP0181SPH2UL

Medium static ducted

MMD-AP0071BH2UL, MMD-AP0091BH2UL, MMD-AP0121BH2UL, MMD-AP0151BH2UL, MMD-AP0181BH2UL, MMD-AP0211BH2UL, MMD-AP0241BH2UL, MMD-AP0301BH2UL, MMD-AP0361BH2UL, MMD-AP0421BH2UL, and MMD-AP0481BH2UL

High static ducted

MMD-AP0151H2UL, MMD-AP0181H2UL, MMD-AP0241H2UL, MMD-AP0301H2UL, MMD-AP0361H2UL, and MMD-AP0481H2UL

This interim waiver is issued on the condition that the statements, representations, and documents provided by the petitioner are valid. DOE may revoke or modify this interim waiver at any time if it determines the factual basis underlying the petition for waiver is incorrect or the results from the alternate test procedure are unrepresentative of the basic models' true energy consumption characteristics.

DOE makes decisions on waivers and interim waivers for only those models specifically set out in the petition, not future models that may be manufactured by the petitioner. Carrier may submit a new or amended petition for waiver and request for grant of interim waiver, as appropriate, for additional models of commercial package air conditioners and heat pumps for which it seeks a waiver from the DOE test procedure. In addition, DOE notes that grant of an interim waiver or waiver does not release a petitioner from the certification requirements set forth at 10 CFR Part 431, Subpart T.

### IV. Alternate Test Procedure

In responses to two petitions for waiver from Mitsubishi, DOE specified an alternate test procedure to provide a basis from which Mitsubishi 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 Mitsubishi petitions were published in the **Federal Register** on April 9, 2007. See 72 FR 17528 and 72 FR 17533. For reasons similar to those published in these prior notices, DOE believes that an alternate test procedure is appropriate in this instance.

DOE understands that existing testing facilities have limited ability to test multiple indoor units simultaneously. This limitation makes it impractical for manufacturers to test the large number of possible combinations of indoor and outdoor units for some variable refrigerant flow zoned systems. We further note that after DOE granted a waiver for Mitsubishi's R22 multi-split

<sup>2</sup> DOE notes that it has also previously granted interim waivers to Fujitsu (70 FR 5980 (Feb. 4, 2005)), Samsung (70 FR 9629 (Feb. 28, 2005)), Mitsubishi (72 FR 17533 (April 9, 2007)), and Daikin (72 FR 35986 (July 2, 2007)), for comparable commercial multi-split air conditioners and heat pumps.

products, ARI formed a committee to discuss testing issues and to develop a testing protocol for variable refrigerant flow systems. The committee has developed a test procedure which has been adopted by AHRI—“ANSI/AHRI 1230—2010: Performance Rating of Variable Refrigerant Flow (VRF) Multi-Split Air-Conditioning and Heat Pump Equipment” and incorporated into ASHRAE 90.1—2010. The commercial multisplit waivers that DOE has granted to Mitsubishi and several other manufacturers and the alternate test procedure set forth in those waivers are consistent with ANSI/AHRI 1230—2010. The waivers use a definition of “tested combination” that is substantially the same as the definition in ANSI/AHRI 1230—2010. As a result, DOE is considering prescribing ANSI/AHRI 1230—2010 in the subsequent decision and order as the alternate test procedure for this Carrier waiver. For the interim waiver, however, DOE will continue to require the use of the alternate test procedure prescribed in the past multi-split waivers.

Therefore, as a condition for granting this interim waiver to Carrier, DOE is including an alternate test procedure similar to those granted to Mitsubishi for its R22 and R410A products. This alternate test procedure will allow Carrier to test and make energy efficiency representations for its SMMSi products. DOE has applied a similar alternate test procedure to other waivers for similar residential and commercial central air conditioners and heat pumps manufactured by Mitsubishi (72 FR 17528, April 9, 2007); Samsung (72 FR 71387, Dec. 17, 2007); Fujitsu (72 FR 71383, Dec. 17, 2007); Daikin (73 FR 39680, July 10, 2008); Daikin (74 FR 15955, April 8, 2009); Daikin (74 FR 16193, April 9, 2009); Daikin (74 FR 16373, April 10, 2009); Mitsubishi (74 FR 66311, 66315, December 15, 2009) and LG (74 FR 66330, December 15, 2009).

The alternate test procedure developed in conjunction with the Mitsubishi waiver permits Carrier 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 eight indoor units so that it can be tested in available test facilities. (The “tested combination” was originally defined to consist of one outdoor unit matched with between 2 and 5 indoor units. The maximum number of indoor units in a tested combination is increased in this instance from 5 to 8 to account for the fact that these larger-

capacity products can accommodate a greater number of indoor units.) The tested combination must be tested according to the applicable DOE test procedure, as modified by the provisions of the alternate test procedure as set forth below. The alternate test procedure also allows manufacturers of such products to make valid and consistent representations of energy efficiency for their air-conditioning and heat pump products.

DOE is including the following waiver language in the interim waiver for Carrier’s SMMSi commercial multi-split water-source heat pump models:

(1) The petition for waiver filed by Carrier Corporation is hereby granted as set forth in the paragraphs below.

(2) Carrier shall not be required to use existing test procedures to test or rate its SMMSi variable capacity multi-split heat pump products listed above, but shall be required to test and rate such products according to the alternate test procedure as set forth in paragraph (3).

(3) *Alternate test procedure.*

(A) Carrier shall be required to test the products listed in above according to the test procedures for central air conditioners and heat pumps prescribed by DOE at 10 CFR 431.96, except that Carrier 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, Carrier shall make representations concerning the SMMSi 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:

(1) The basic model of a variable refrigerant flow system used as a tested combination shall consist of one outdoor unit, with one or more compressors, that is matched with between two and five indoor units. (For systems with nominal cooling capacities greater than 150,000 Btu/h, as many as eight indoor units may be used, to enable testing of non-ducted indoor unit combinations). For multi-split systems, each of these indoor units shall be designed for individual operation.

(2) The indoor units shall—

(i) Represent the highest sales model family or another indoor model family if the highest sales model family does not provide sufficient capacity (see ii);

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

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

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

(v) Be subject to the same minimum external static pressure requirement while being configurable to produce the same static pressure at the exit of each outlet plenum when manifolded as per § 2.4.1 of 10 CFR part 430, subpart B, appendix M.

(C) *Representations.* In making representations about the energy efficiency of its SMMSi variable capacity multi-split heat pump products for compliance, marketing, or other purposes, Carrier must fairly disclose the results of testing under the DOE test procedure in a manner consistent with the provisions outlined below:

(1) For SMMSi combinations tested in accordance with this alternate test procedure, Carrier may make representations based on these test results.

(2) For SMMSi combinations that are not tested, Carrier may make representations of non-tested combinations at the same energy efficiency level as the tested combination. The outdoor unit must be the one used in the tested combination. The representations must be based on the test results for the tested combination. The representations may also be determined by an Alternative Rating Method approved by DOE.

## V. Summary and Request for Comments

Through today’s notice, DOE announces receipt of the Carrier petition for waiver from the test procedures applicable to Carrier’s SMMSi commercial multi-split heat pump products. For the reasons articulated above, DOE also grants Carrier an interim waiver from those procedures. As part of this notice, DOE is publishing Carrier’s petition for waiver in its entirety. The petition contains no confidential information. Furthermore, today’s notice includes an alternate test procedure that Carrier is required to follow as a condition of its interim waiver. In this alternate test procedure, DOE is defining a tested combination that Carrier could use in lieu of testing all retail combinations of its SMMSi multi-split heat pump products.

DOE is interested in receiving comments on the issues addressed in this notice. Pursuant to 10 CFR

431.401(d), any person submitting written comments must also send a copy of such comments to the petitioner, pursuant to 10 CFR 431.401(d). The contact information for the petitioner is: Dr. John Galbraith, VP of RCS Engineering, Carrier Corporation, 7310 West Morris Street, Indianapolis, IN 46231. All submissions received must 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).

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.

Issued in Washington, DC, on March 30, 2011.

**Kathleen Hogan,**

*Deputy Assistant Secretary for Energy Efficiency, Office of Technology Development, Energy Efficiency and Renewable Energy.*

February 16, 2011.

Ms. Catherine Zoi, Assistant Secretary for Energy Efficiency and Renewable Energy, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585-0121.

Re: Petition for Waiver and Application for Interim Waiver From Department of Energy Commercial Package Air Conditioner and Heat Pump Test Procedures

Dear Assistant Secretary Zoi:

Pursuant to 10 CFR 431.401(a), Carrier Corporation (“Carrier”) respectfully petitions the Department of Energy (“DOE”) for a waiver of the test procedure set forth at 10 CFR 431.96, *i.e.*, ARI Standard 340/360–2004,

<sup>1</sup> applicable to its Super Modular Multi-system (“SMMSi”) commercial

Variable Refrigerant Flow (“VRF”) multi-split systems. Carrier requests this waiver for the SMMSi systems because the basic design of VRF multi-split systems prevents testing or rating according to DOE’s prescribed test procedures. Carrier also hereby requests an interim waiver for the same products pursuant to 10 CFR 431.401(a)(2).

**Background**

Carrier is a wholly-owned subsidiary of United Technologies Corporation. Carrier provides heating, ventilation, air-conditioning and refrigeration (HVACR) systems, controls, services, and sustainable building solutions for residential, commercial, industrial, food service, and transportation applications. Carrier would like to initiate the marketing and sale of the SMMSi systems as early as March 2011. Carrier will import the systems from two of its joint ventures: Toshiba Carrier Corporation (Japan) and Toshiba Carrier Thailand Co. Ltd.

Carrier’s SMMSi VRF multi-split products contain design characteristics that prevent testing of the system using the procedures incorporated by reference at 10 CFR 431.96, ARI Standard 340/360–2004. This standard does not provide a feasible method of testing and rating a system that: (i) Utilizes multiple indoor and outdoor units; and (ii) allows for the mixing of different types and capacities of indoor units within the same system. Carrier’s products that are the subject of this petition and application involve 7 unique outdoor models<sup>2</sup> and 43 unique indoor models. A single outdoor model can be connected to up to 38 indoor units. Moreover, the various indoor and outdoor models can be connected in a multitude of configurations. Simply put, there are many thousands of possible combinations.

A waiver and interim waiver for Carrier’s SMMSi systems are warranted for reasons cited previously in other applications for waiver for similar commercial multi-split air conditioning systems. The two key reasons are, first, that testing laboratories are unable to test products with so many indoor units (up to 38) connected to an outdoor system. Second, there are too many possible combinations of indoor and outdoor units to be feasibly tested. In addition, DOE has granted waivers to

<sup>1</sup> 340/360 in 2011 version of 10 CFR 431.96, Carrier hereby requests a waiver from those test procedures as well.

<sup>2</sup> The 7 outdoor models include 6-ton, 8-ton, and 9.5-ton units, as well as combinations of these units that result in 12-ton, 14-ton, 16-ton, and 19-ton units. The model numbers and capacities for these 7 units are provided in Section II.

numerous other comparable commercial, multi-split VRF systems, including Mitsubishi Electric & Electronics USA, 72 FR 17528 (Apr. 9, 2007); Samsung, 72 FR 71387 (Dec. 17, 2007); Fujitsu, 72 FR 71383 (Dec. 17, 2007); SANYO North America Corp., 75 FR 41845 (July 19, 2010); LG Electronics U.S.A., Inc., 74 FR 66330 (Dec. 15, 2009); and Daikin AC (Americas), 74 FR 16373 (Apr. 10, 2009).

**Basic Models for Which a Waiver Is Requested**

Carrier seeks a waiver from the test procedures in 10 CFR 431.96 for the following basic models:

*Standard model outdoor units:*

MMY–MAP0724HT9UL, with a capacity of 72,000 Btu/hr  
 MMY–MAP0964HT9UL, with a capacity of 96,000 Btu/hr  
 MMY–MAP1144HT9UL, with a capacity of 114,000 Btu/hr  
 MMY–AP1444HT9UL, with a capacity of 144,000 Btu/hr  
 MMY–AP1684HT9UL, with a capacity of 168,000 Btu/hr  
 MMY–AP1924HT9UL, with a capacity of 192,000 Btu/hr  
 MMY–AP2284HT9UL, with a capacity of 220,000 Btu/hr

All outdoor units identified above are compatible for use with the below listed indoor units, whose capacities range from 7,000 to 48,000 Btu/hr:

*4-way cassette*

MMU–AP0182H2UL, MMU–AP0212H2UL, MMU–AP0242H2UL, MMU–AP0302H2UL, MMU–AP0362H2UL, and MMU–AP0422H2UL

*Compact 4-way cassette*

MMU–AP0071MH2UL, MMU–AP0091MH2UL, MMU–AP0121MH2UL, MMU–AP0151MH2UL, and MMU–AP0181MH2UL

*Ceiling*

MMC–AP0181H2UL, MMC–AP0241H2UL, MMC–AP0361H2UL, and MMC–AP0421H2UL

*High-wall*

MMK–AP0073H2UL, MMK–AP0093H2UL, MMK–AP0123H2UL, MMK–AP0153H2UL, MMK–AP0183H2UL, and MMK–AP0243H2UL

*Slim ducted*

MMD–AP0071SPH2UL, MMD–AP0091SPH2UL, MMD–AP0121SPH2UL, MMD–AP0151SPH2UL, and MMD–AP0181SPH2UL

*Medium static ducted*

MMD–AP0071BH2UL, MMD–AP0091BH2UL, MMD–AP0121BH2UL, MMD–AP0151BH2UL, MMD–AP0181BH2UL, MMD–AP0211BH2UL, MMD–AP0241BH2UL, MMD–AP0301BH2UL, MMD–AP0361BH2UL, MMD–AP0421BH2UL, and MMD–AP0481BH2UL

*High static ducted*

<sup>1</sup> As of the date of this petition and application, the current version of 10 CFR 431.96 (2010) incorporates by reference ARI Standard 340/360–2004. In the event that DOE incorporates by reference a more recent iteration of ARI Standard

MMD-AP0151H2UL, MMD-AP0181H2UL, MMD-AP0241H2UL, MMD-AP0301H2UL, MMD-AP0361H2UL, and MMD-AP0481H2UL

### SMMSi System Characteristics Constituting the Grounds for Carrier's Petition

Carrier's SMMSi VRF multi-split products allow for the connection of multiple indoor units to an outdoor system comprised of one or two outdoor units. These units contain highly efficient twin-rotary compressors and advanced vector-controlled inverters to allow for greater operating performance when operating under a constant load. This improves both energy efficiency and comfort levels. In addition, the products' infinite variable control adjusts compressor rotation speed in 0.1 Hz steps, which further helps to minimize energy loss when changing frequencies and also creates a comfortable environment subject to minimal temperature variations.

Carrier's newly developed VRF control ensures the right amount of cooling or heating to satisfy the unique demands of each room, regardless of the type of indoor unit used or the length of the pipes. Moreover, system layouts can use a maximum equivalent distance of up to 985 feet, and Carrier's products can support height differences of up to 130 feet between indoor units within a single system.

VRF multi-split technology will help the United States reduce the amount of energy required to heat and cool buildings. Carrier looks forward to introducing its SMMSi products to improve the control and comfort of end users and to help decrease the nation's overall energy usage.

As indicated above, DOE has previously granted waivers and interim waivers to other manufacturers of similar VRF multi-split equipment that share the same basic system characteristics as that of Carrier's SMMSi products. *See, e.g.*, 75 FR 41845 (July 19, 2010) (order granting Sanyo's petition for waiver); 74 FR 66330 (Dec. 15, 2009) (order granting LG's petition for waiver); 74 FR 16373 (Apr. 10, 2009) (order granting Daikin's petition for waiver); 72 FR 71387 (Dec. 17, 2007) (order granting Samsung's petition for waiver); 72 FR 71383 (Dec. 17, 2007) (order granting Fujitsu's petition for waiver); 72 FR 17528 (Apr. 9, 2007) (order granting Mitsubishi's petition for waiver); *see also* 75 FR 13114 (Mar. 18, 2010) (granting Sanyo's application for interim waiver); 74 FR 66324 (Dec. 15, 2009) (granting Daikin's application for interim waiver); 74 FR 20688 (May 5, 2009) (granting LG's application for

interim waiver); 71 FR 14858 (Mar. 24, 2006) (granting Mitsubishi's application for interim waiver).

### Specific Testing Requirements Sought To Be Waived

Carrier's petition seeks a waiver from the applicable test procedures set forth at 10 CFR 431.96. Specifically, Carrier petitions for waiver from the test conditions and procedures of ARI Standard 340/360-2004 for its SMMSi products with nominal capacity greater than or equal to 65,000 BTU/hr, but less than 760,000 BTU/hr.

### Identity of Manufacturers of Similar Basic Models

To the best of Carrier's knowledge, the following manufacturers currently market similar VRF products within the United States:

Daikin AC (Americas), Inc.  
Fujitsu General America, Inc.  
LG Electronics U.S.A., Inc.  
Mitsubishi Electric & Electronics USA, Inc.  
SANYO North America Corp.

### Alternate Testing Procedures

Carrier requests that DOE approve as an alternate test procedure the procedures outlined in the current AHRI Standard 1230, *Performance Rating of Variable Refrigerant Flow (VRF) Multi-Split Air-Conditioning and Heat Pump Equipment Standard*. These procedures are substantially similar to those that DOE has applied in the VRF waivers granted to date, with changes intended to make the efficiency ratings based on the standard more comparable to other types of equipment that could be used in place of VRF systems. This requested alternate testing procedure is appropriate for several reasons. First, AHRI plans to launch a VRF certification program based on AHRI Standard 1230. Second, ASHRAE has specified AHRI Standard 1230 as the test standard for VRF systems in ASHRAE Standard 90.1-2010, which establishes efficiency requirements for VRF systems. Notably, in a previous waiver proceeding (75 FR 25,224, 25,226 (May 7, 2010)) Carrier commented that DOE should require similar products to be tested per AHRI 1230. DOE responded that AHRI 1230 had not yet been adopted by ASHRAE. This is no longer the case.

Adopting Standard 1230 as an alternate test procedure would eliminate the need for Carrier to test the SMMSi system using two different testing protocols. If DOE applies something other than Standard 1230, Carrier would have to test its systems using: (i) AHRI Standard 1230 to receive AHRI

certification and to show compliance with the efficiency levels in ASHRAE 90.1; and (ii) whatever alternate test procedure that DOE requires as a condition of granting this waiver request. Third, given the requirements for varying interconnecting tube lengths with system capacity, the latest edition of Standard 1230 provides a more accurate comparison of the energy efficiency ratings of VRF products and non-VRF alternative systems than do the alternate procedures that DOE has previously applied in other waiver approvals.

### Application for Interim Waiver

Pursuant to 10 CFR 431.401(a)(2), Carrier also submits an Application for Interim Waiver of 10 CFR 431.96 and ARI Standard 340/360-2004 for the SMMSi VRF multi-split models listed in Section II above. Carrier's application should be granted for the following reasons.

First, Carrier is likely to succeed on its Petition for Waiver because there is no reasonable argument that ARI Standard 340/360-2004 can be applied to its SMMSi product class. Existing testing facilities are not designed to test multi-split VRF systems with so many indoor and outdoor units and possible combinations. Indeed, as explained above, DOE has granted similar petitions for waiver and applications for interim waiver from several companies based on the same rationale offered by Carrier in this Petition and Application. Those prior approvals confirm that the test procedures incorporated by reference into 10 CFR 431.96 do not adequately define uniform testing and rating methods for VRF multi-split products.

Second, Carrier is likely to suffer economic hardship and a competitive disadvantage if DOE does not grant its application for interim waiver. Other manufacturers of similar products have already received waivers and are able to market and distribute their VRF multi-split products. Without an interim waiver, Carrier will be unable to introduce its SMMSi product line in the United States in March 2011 as currently planned. A significant portion of Carrier's projected revenues depends on the timely introduction of this product line into the United States market. In the event that Carrier must await completion of DOE's waiver process, its revenues and market share will be negatively affected.

Finally, Carrier's application for interim waiver is supported by sound public policy reasons, as DOE recently recognized in granting a similar application: "[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 FR at 1215. Moreover, Carrier's SMMSi products will increase system efficiency, reduce national energy usage, and benefit end users in the United States.

### Confidential Information

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

### Conclusion

Carrier respectfully requests that DOE grant a waiver and interim waiver from existing test procedures applicable to Carrier's SMMSi VRF multi-split systems and to apply the alternate testing procedures described above until such time as a representative test procedure is developed and adopted for such products. Otherwise, Carrier will not be able to compete effectively in the United States VRF market.

Given that Carrier would like to introduce its SMMSi product line in March 2011 and that DOE's regulations contemplate a decision on Carrier's Application for Interim Waiver within 15 business days, 10 CFR 431.401(e), Carrier would greatly appreciate a timely response to this letter request. To that end, we would be happy promptly to answer any questions that you might have and to provide you with any needed additional information.

Carrier certifies that all manufacturers listed above in Section V of this request have been notified by letter of this petition and application.

Sincerely,  
Carrier Corporation,  
Dr. John Galbraith,  
VP for RCS Engineering.

[FR Doc. 2011-8401 Filed 4-7-11; 8:45 am]

BILLING CODE 6450-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Project No. 5679-031]

#### Toutant Hydropower Inc.; Notice of Application Accepted for Filing, Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed

with the Commission and is available for public inspection:

a. *Types of Application*: Amendment of License.

b. *Project No.*: 5679-031.

c. *Date Filed*: October 12, 2010.

d. *Applicant*: Toutant Hydropower Inc.

e. *Name of Project*: M.S.C. (Toutant) Hydroelectric Project.

f. *Location*: The project is located on the Quinebaugh River, in Windham County, Connecticut.

g. *Filed Pursuant to*: Federal Power Act, 16 U.S.C. 791a-825r.

h. *Applicant Contact*: Roland Toutant, Toutant Hydropower, Inc., 80 Bungay Hill Road, Woodstock, CT 06281, (860) 974-2099.

i. *FERC Contact*: Mr. Jeremy Jessup, (202) 502-6779, [Jeremy.Jessup@ferc.gov](mailto:Jeremy.Jessup@ferc.gov).

j. *Deadline for filing comments, motions to intervene, and protests*, is 30 days from the issuance date of this notice. All documents 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>. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and seven copies should be mailed to: Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. 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.

Please include the project number (P-5679-031) on any comments, motions, or recommendations filed.

k. *Description of Request*: The applicant proposes to amend the license to reflect one refurbished and re-installed small "fire pump" turbine direct coupled to a 120 kilowatt, 2300 volt, AC synchronous vertically mounted generator. The "fire pump" turbine is located in the southwest corner of the existing turbine pit. The "fire pump" turbine has a rated maximum hydraulic capacity of 106 cubic feet per second. All of the work to refurbish and re-install the turbine and install the generator occurred within the existing hydropower facility.

l. *Locations of the Application*: A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 502-8371. This filing may also be viewed on the Commission's Web site at

<http://www.ferc.gov/docs-filing/elibrary.asp>. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at <http://www.ferc.gov/docs-filing/esubscription.asp> to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, call 1-866-208-3676 or e-mail [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), for TTY, call (202) 502-8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions To Intervene*: Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents*: Any filing must (1) Bear in all capital letters the title "COMMENTS", "PROTEST", or "MOTION TO INTERVENE" as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). All comments, motions to intervene, or protests should relate to project works which are the subject of the license surrender. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. If an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document