[6450-01-P]

DEPARTMENT OF ENERGY

10 CFR Part 431

[Docket Number EERE–2013–BT–STD–0007 and EERE–2013–BT–STD–0021]

RIN: 1904–AC95 and 1904–AD11

Energy Conservation Program for Certain Industrial Equipment: Energy Conservation Standards for Small, Large, and Very Large Air-Cooled Commercial Package Air Conditioning and Heating Equipment and Commercial Warm Air Furnaces

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

ACTION: Notice of effective date and compliance dates for direct final rule.

SUMMARY: The U.S. Department of Energy ("DOE") published a direct final rule to establish amended energy conservation standards for small, large, and very large air-cooled commercial package air conditioning and heating equipment and commercial warm air furnaces in the Federal Register on January 15, 2016. DOE has determined that the comments received in response to the direct final rule do not provide a reasonable basis for withdrawing the direct final rule. Therefore, DOE provides this notice

confirming adoption of the energy conservation standards established in the direct final rule and announcing the effective date of those standards.

DATES: The direct final rule published on January 15, 2016 (81 FR 2420) became effective on May 16, 2016. Compliance with the amended standards in this final rule will be required for small, large, and very large air-cooled commercial package air conditioning and heating equipment listed in this final rule starting on January 1, 2018, for the first set of standards and January 1, 2023, for the second set of standards. Compliance with the amended standards established for commercial warm air furnaces in this final rule is required starting on January 1, 2023.

ADDRESSES: The dockets, which include Federal Register notices, public meeting attendee lists and transcripts, comments, and other supporting documents/materials, is available for review at www.regulations.gov. All documents in the dockets are listed in the www.regulations.gov index. However, some documents listed in the index, such as those containing information that is exempt from public disclosure, may not be publicly available.

A link to the docket web page for small, large, and very large air-cooled commercial package air conditioning and heating equipment can be found at: www.regulations.gov/#!docketDetail;D=EERE-2013-BT-STD-0007. A link to the docket web page for commercial warm air furnaces can be found at: www.regulations.gov/#!docketDetail;D=EERE-2013-BT-STD-0021.The

www.regulations.gov web page will contain instructions on how to access all documents, including public comments, in the docket.

For further information on how to review the dockets, contact Ms. Brenda Edwards at (202) 586-2945 or by email: Brenda.Edwards@ee.doe.gov.

FOR FURTHER INFORMATION CONTACT:

Mr. John Cymbalsky, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies, EE-5B, 1000 Independence Avenue, SW., Washington, DC 20585-0121. Telephone: (202) 286-1692. E-mail: John.Cymbalsky@ee.doe.gov.

SUPPLEMENTARY INFORMATION:

I. Authority and Rulemaking Background

As amended by the Energy Independence and Security Act of 2007 ("EISA 2007"), Public Law 110-140 (December 19, 2007), the Energy Policy and Conservation Act ("EPCA" or, in context, "the Act") authorizes DOE to issue a direct final rule (i.e., a "direct final rule") establishing an energy conservation standard for a product on receipt of a statement submitted jointly by interested persons that are fairly representative of relevant points of view (including representatives of manufacturers of covered products, States, and efficiency advocates) as determined by the Secretary of Energy ("Secretary"). That statement must contain recommendations with respect to an energy or water conservation standard that are in accordance with the provisions of 42 U.S.C. 6295(o) or

42 U.S.C. 6313(a)(6)(B), as applicable. A notice of proposed rulemaking ("NOPR") that proposes an identical energy efficiency standard must be published simultaneously with the direct final rule and a public comment period of at least 110 days provided. See 42 U.S.C. 6295(p)(4). This provision also applies to the equipment at issue in this direct final rule. See 42 U.S.C. 6316(b)(1) Not later than 120 days after issuance of the direct final rule, if DOE receives one or more adverse comments or an alternative joint recommendation is received relating to the direct final rule, the Secretary must determine whether the comments or alternative recommendation may provide a reasonable basis for withdrawal under 42 U.S.C. 6295(o) or other applicable law. If the Secretary makes such a determination, DOE must withdraw the direct final rule and proceed with the simultaneously-published NOPR, and publish in the Federal Register the reason why the direct final rule was withdrawn. Id.

During the rulemaking proceedings to consider amending the energy conservation standards for small, large, and very large air-cooled commercial package air conditioning and heating equipment (referred to herein as air-cooled commercial unitary air conditioners and heat pumps ("CUACs" and "CUHPs")) and commercial warm air furnaces ("CWAFs"), interested parties commented that DOE should convene a negotiated rulemaking to develop standards that will result in energy savings using technology that is feasible and economically justified. In addition, AHRI and ACEEE submitted a joint letter to the Appliance Standards and Rulemaking Federal Advisory Committee ("ASRAC") requesting that it consider approving a recommendation that DOE initiate a negotiated rulemaking for air-cooled commercial package air conditioners

and commercial furnaces. (EERE-2013-BT-STD-0007-0080) ASRAC carefully evaluated this request and the Committee voted to charter a working group to support the negotiated rulemaking effort requested by these parties.

Subsequently, after careful consideration, DOE determined that, given the complexity of the CUAC/CUHP rulemaking and the logistical challenges presented by the related CWAF proposal, a combined effort to address these equipment types was necessary to ensure a comprehensive vetting of all issues and related analyses that would be necessary to support any final rule setting standards for this equipment. To this end, while highly unusual to do so after issuing a proposed rule, DOE solicited the public for membership nominations to the working group that would be formed under the ASRAC charter by issuing a Notice of Intent to Establish the Commercial Package Air Conditioners and Commercial Warm Air Furnaces Working Group To Negotiate Potential Energy Conservation Standards for Commercial Package Air Conditioners and Commercial Warm Air Furnaces. 80 FR 17363 (April 1, 2015). The CUAC/CUHP-CWAF Working Group (in context, "the Working Group") was established under ASRAC in accordance with the Federal Advisory Committee Act and the Negotiated Rulemaking Act -- with the purpose of discussing and, if possible, reaching consensus on a set of energy conservation standards to propose or finalize for CUACs, CUHPs and CWAFs. The Working Group was to consist of fairly representative parties having a defined stake in the outcome of the proposed standards, and would consult, as appropriate, with a range of experts on technical issues.

DOE received 17 nominations for membership. Ultimately, the Working Group consisted of 17 members, including one member from ASRAC and one DOE representative.[1] The Working Group met six times (five times in-person and once by teleconference). The meetings were held on April 28, May 11-12, May 20-21, June 1-2, June 9-10, and June 15, 2015.[2] As a result of these efforts, the Working Group successfully reached consensus on energy conservation standards for CUACs, CUHPs, and CWAFs. On June 15, 2015, it submitted a Term Sheet to ASRAC outlining its consensus recommendations, which ASRAC subsequently adopted.[3]

After carefully considering the consensus recommendations submitted by the Working Group and adopted by ASRAC related to amending the energy conservation standards for CUACs, CUHPs, and CWAFs, DOE determined that these recommendations, which were submitted in the form of a single Term Sheet from the Working Group, comprised a statement submitted by interested persons who are fairly representative of relevant points of view on this matter. In reaching this determination, DOE took into consideration the fact that the Working Group, in conjunction with

[1] The group members were John Cymbalsky (U.S. Department of Energy), Marshall Hunt (Pacific Gas & Electric Company, San Diego Gas & Electric Company, Southern California Edison, and Southern California Gas Company), Andrew deLaski (Appliance Standards Awareness Project), Louis Starr (Northwest Energy Efficiency Alliance), Meg Waltner (Natural Resources Defense Council), Jill Hootman (Trane), John Hurst (Lennox), Karen Meyers (Rheem Manufacturing Company), Charlie McCrudden (Air Conditioning Contractors of America), Harvey Sachs (American Council for an Energy Efficient Economy), Paul Doppel (Mitsubishi Electric), Robert Whitwell (United Technologies Corporation (Carrier)), Michael Shows (Underwriters Laboratories), Russell Tharp (Goodman Manufacturing), Sami Zendah (Emerson Climate Technologies), Mark Tezigni (Sheet Metal and Air Conditioning Contractors National Association, Inc.), Nick Mislak (Air-Conditioning, Heating, and Refrigeration Institute).

[2] In addition, most of the members of the ASRAC Working Group held several informal meetings on March 19-20, 2015, March 30, 2015, and April 13, 2015. The purpose of these meetings was to initiate work on some of the analytical issues raised in stakeholder comments on the CUAC NOPR.

[3] Available at http://www.regulations.gov/#!documentDetail;D=EERE-2013-BT-STD-0007-0093.

ASRAC members who approved the recommendations, consisted of representatives of manufacturers of the covered equipment at issue, States, and efficiency advocates -- all of which are groups specifically identified by Congress as relevant parties to any consensus recommendation. (42 U.S.C. 6295(p)(4)(A)) As delineated above, the Term Sheet was signed and submitted by a broad cross-section of interests, including the manufacturers who produce the equipment at issue, trade associations representing these manufacturers and installation contractors, environmental and energy-efficiency advocacy organizations, and electric utility companies. Although States were not direct signatories to the Term Sheet, the ASRAC Committee approving the Working Group's recommendations included at least two members representing States -- one representing the National Association of State Energy Officials ("NASEO") and one representing the State of California.[4] Moreover, DOE does not read the statute as requiring a statement submitted by all interested parties before the Department may proceed with issuance of a direct final rule. By explicit language of the statute, the Secretary has the discretion to determine when a joint recommendation for an energy or water conservation standard has met the requirement for representativeness (i.e., "as determined by the Secretary").

Pursuant to 42 U.S.C. 6295(p)(4), the Secretary must also determine whether a jointly-submitted recommendation for an energy or water conservation standard satisfies 42 U.S.C. 6295(o) or 42 U.S.C. 6313(a)(6)(B), as applicable. As stated in the direct final rule, in making this determination, DOE conducted an analysis to evaluate whether the potential energy conservation standards under consideration would meet these

[4] These individuals were Deborah E. Miller (NASEO) and David Hungerford (California Energy Commission).

requirements. This evaluation is the same comprehensive approach that DOE typically conducts whenever it considers potential energy conservation standards for a given type of product or equipment. DOE applies the same principles to any consensus recommendations it may receive to satisfy its statutory obligation to ensure that any energy conservation standard that it adopts achieves the maximum improvement in energy efficiency that is technologically feasible and economically justified and will result in the significant conservation of energy. Upon review, the Secretary determined that the Term Sheet submitted in the instant rulemaking comports with the standard-setting criteria set forth under 42 U.S.C. 6313(a)(6)(B). Accordingly, the consensus-recommended efficiency levels, included as the "recommended trial standard level (TSL)" for CUACs/CUHPs and as TSL 2 for CWAFs were adopted as the amended standard levels in the direct final rule. 81 FR at 2422.

In sum, as the relevant statutory criteria were satisfied, the Secretary adopted the consensus-recommended amended energy conservation standards for CUACs, CUHPs, and CWAFs set forth in the direct final rule. The standards for CUACs and CUHPs are set forth in Table 1, with the CUAC and CUHP cooling efficiency standards presented in terms of an integrated energy efficiency ratio ("IEER") and the CUHP heating efficiency standards presented as a coefficient of performance ("COP"). The IEER metric will replace the currently used energy efficiency ratio ("EER") metric on which DOE's standards are currently based. The two-phase standards and compliance dates apply to all equipment listed in Table 1 manufactured in, or imported into, the United States starting on the dates shown in that table. For CWAFs, the amended standards, which prescribe

the minimum allowable thermal efficiency ("TE"), are shown in Table 2. These standards apply to all equipment listed in Table 2 manufactured in, or imported into, the United States starting on January 1, 2023. These compliance dates were set forth in the direct final rule published in the Federal Register on January 15, 2016 (81 FR 2420). For a detailed discussion of DOE's analysis of the benefits and burdens of the amended standards pursuant to the criteria set forth in EPCA, please refer to the relevant sections of the direct final rule. (81 FR 2420 (January 15, 2016))

As required by EPCA, DOE also simultaneously published an SNOPR proposing the identical standard levels contained in the direct final rule. DOE considered whether any adverse comment received during the 110-day comment period following the direct final rule provided a reasonable basis for withdrawal of the direct final rule and continuation of this rulemaking under the SNOPR. As noted in the direct final rule, it is the substance, rather than the quantity, of comments that will ultimately determine whether a direct final rule will be withdrawn. To this end, DOE weighs the substance of any adverse comment(s) received against the anticipated benefits of the Consensus Agreement and the likelihood that further consideration of the comment(s) would change the results of the rulemaking. DOE notes that to the extent an adverse comment had been previously raised and addressed in the rulemaking proceeding, such a submission will not typically provide a basis for withdrawal of a direct final rule.

Table 1. Amended Energy Conservation Standards for Small, Large, and Very Large Commercial Package Air Conditioning and Heating Equipment

Equipment Type		Heating Type	Proposed Energy Conservation Standard	Compliance Date
Small Commercial Packaged AC and HP (Air-Cooled) – ≥65,000 Btu/h and <135,000 Btu/h Cooling Capacity	AC	Electric Resistance Heating or No Heating	12.9 IEER 14.8 IEER	January 1, 2018 January 1, 2023
		All Other Types of Heating	12.7 IEER 14.6 IEER	January 1, 2018 January 1, 2023
	HP	Electric Resistance Heating or No Heating	12.2 IEER 3.3 COP 14.1 IEER 3.4 COP	January 1, 2018 January 1, 2023
		All Other Types of Heating	12.0 IEER 3.3 COP 13.9 IEER 3.4 COP	January 1, 2018 January 1, 2023
Large Commercial Packaged AC and HP (Air-Cooled) – ≥135,000 Btu/h and <240,000 Btu/h Cooling Capacity	AC	Electric Resistance Heating or No Heating	12.4 IEER 14.2 IEER	January 1, 2018 January 1, 2023
		All Other Types of Heating	12.2 IEER 14.0 IEER	January 1, 2018 January 1, 2023
	HP	Electric Resistance Heating or No Heating	11.6 IEER 3.2 COP 13.5 IEER 3.3 COP	January 1, 2018 January 1, 2023
		All Other Types of Heating	11.4 IEER 3.2 COP 13.3 IEER 3.3 COP	January 1, 2018 January 1, 2023
Very Large Commercial Packaged AC and HP (Air-Cooled) – ≥240,000 Btu/h and <760,000 Btu/h Cooling Capacity	AC	Electric Resistance Heating or No Heating	11.6 IEER 13.2 IEER	January 1, 2018 January 1, 2023
		All Other Types of Heating	11.4 IEER 13.0 IEER	January 1, 2018 January 1, 2023
	HP	Electric Resistance	10.6 IEER	January 1, 2018

Equipment Type		Heating Type	Proposed Energy Conservation Standard	Compliance Date
		Heating or No Heating	3.2 COP 12.5 IEER 3.2 COP	January 1, 2023
		All Other Types of Heating	10.4 IEER 3.2 COP 12.3 IEER 3.2 COP	January 1, 2018 January 1, 2023

Table 2. Amended Energy Conservation Standards for Commercial Warm Air Furnaces

Equipment Class	Input Capacity* (Btu/h)	Thermal Efficiency**
Gas-Fired Furnaces	≥225,000 Btu/h	81%
Oil-Fired Furnaces	≥225,000 Btu/h	82%

* In addition to being defined by input capacity, a CWAF is "a self-contained oil- or gas-fired furnace designed to supply heated air through ducts to spaces that require it and includes combination warm air furnace/electric air conditioning units but does not include unit heaters and duct furnaces."
**Thermal efficiency is at the maximum rated capacity (rated maximum input), and is determined using the DOE test procedure specified at 10 CFR 431.76.

II. Comments on the Direct Final Rule

The California Investor Owned Utilities ("IOUs")[5], the Joint Efficiency Advocates[6], and Lennox International, Inc. ("Lennox") supported the Term Sheet recommendations and DOE's adoption of the standard levels in the direct final rule.

[5]Pacific Gas and Electric Company, Southern California Gas Company, San Diego Gas and Electric, and Southern California Edison
[6] Appliance Standards Awareness Project, Alliance to Save Energy, American Council for an Energy-Efficient Economy, California Energy Commission, Consumer Federation of America, National Consumer Law Center, Natural Resources Defense Council, Northeast Energy Efficiency Partnerships, Northwest Energy Efficiency Alliance, and Northwest Power and Conservation Council

(California IOUs, No. 116 at pp. 1–3; Joint Efficiency Advocates, No. 119 at p. 1; Lennox, No. 121 at pp. 1–2)[7]

The Joint Efficiency Advocates also noted that the Term Sheet recommended that DOE initiate a test procedure rulemaking for CUACs and CUHPs by January 1, 2016 and issue a final rule by January 1, 2019, with the primary focus of the rulemaking being to better represent fan energy use. The Joint Efficiency Advocates requested that DOE give some public indication of its commencement of work on the test procedure. (Joint Efficiency Advocates, No. 119 at pp. 1–2) The California IOUs also commented that while the January 1, 2016 initiation date has passed, DOE should initiate this test procedure rulemaking as soon as possible to address fan energy use and the lack of high ambient test conditions above 95 degrees Fahrenheit (°F) to account for conditions regularly experienced in the desert Southwest. (California IOUs, No. 116 at p. 2)

DOE appreciates these comments regarding the CUAC/CUHP test procedure and is considering these potential changes to the test procedure in a future rulemaking. DOE notes that any amendments adopted in this future test procedure rulemaking would not be required for use to determine compliance with the energy conservation standards promulgated by this direct final rule.

[7] Comments received in regards to the direct final rule while filed in the dockets for both the CUAC/CUHP (Docket No. EERE-2013-BT-STD-0007) and CWAF (Docket No. EERE–2013–BT–STD–0021) rulemakings, are identified using the CUAC docket number.

The California IOUs commented that as DOE conducts future standards and test procedure rulemakings for these equipment, it should explore different options for standards that will improve efficiency and also contribute to peak load reduction for CUACs and CUHPs. The California IOUs stated that DOE could consider the following actions in future rulemakings: revisiting the possibility of a dual metric for EER and IEER; an IEER test point at an ambient temperature above 95° F; and using energy modeling software to predict equipment performance at peak conditions. (California IOUs, No. 116 at p. 3)

The Air-Conditioning, Heating, and Refrigeration Institute ("AHRI") submitted a letter committing to continue to certify and publish EER values (at 95°F) for CUAC and CUHP equipment covered under this rulemaking in its directory of certified products once the IEER metric becomes the new Federal energy efficiency descriptor. AHRI noted that this commitment was not part of the term sheet and should not be considered as a comment to the SNOPR. (AHRI, No. 118 at p. 1) The California IOUs and Joint Efficiency Advocates both supported AHRI's commitment to continue publishing full-load EER test values, as this information is important for the design and implementation of utility incentive programs that incentivize consumers to purchase equipment that has high performance in both part load and peak load conditions. (Joint Efficiency Advocates, No. 119 at p. 2)

DOE appreciates these comments regarding CUAC and CUHP full-load efficiency. DOE notes that AHRI's commitment to continuing to require verification and

reporting of EER was discussed and agreed upon by interested parties during the ASRAC Working Group meetings. However, DOE noted that it could not be included as part of the Term Sheet because it was not a recommendation for a specific DOE action. (ASRAC Public Meeting, No. 102 at pp. 79–83, 113–116) DOE recognizes that AHRI's commitment to continuing to require verification and reporting of EER for its certification program would allow utilities, and others, to consider full-load efficiency in their energy efficiency programs. DOE will review its statutory authority at the time it conducts a future standards rulemaking for CUACs and CUHPs to explore options to separately consider full-load efficiency.

DOE also received two comments that discussed the market failures addressed by the direct final rule and made suggestions for actions that would complement the standards. Arthur Laciak commented that by establishing more stringent energy efficiency standards, DOE addressed the principal-agent problem (i.e. where a building manager purchases the equipment, but the tenants pay the energy bill), but the consumer is no better informed about the energy savings of more efficient equipment than the minimum standards. He stated that DOE should encourage Congress to provide DOE greater authority to disseminate information regarding CUACs and CUHPs to better inform consumers of the cost savings of purchasing more efficient equipment. (Laciak, No. 120 at pp. 7-8) Paul Melmeyer commented that DOE's economic analysis and justification for the updated standards are cogent and convincing, but he pointed to various ways that DOE can ensure that the direct final rule accomplishes the stated statutory and regulatory objectives. These include programs of labeling or consumer

education, formulating plans to ensure low-income individuals are not adversely affected, and crafting a plan to conduct retrospective analysis on various DOE predictions. (Melmeyer, No. 122 at pp. 10-11) DOE acknowledges the suggestions made by the commenters.

III. Department of Justice Analysis of Competitive Impacts

EPCA directs DOE to consider any lessening of competition that is likely to result from new or amended standards. It also directs the Attorney General of the United States ("Attorney General") to determine the impact, if any, of any lessening of competition likely to result from a proposed standard and to transmit such determination to the Secretary within 60 days of the publication of a proposed rule, together with an analysis of the nature and extent of the impact. See 42 U.S.C. 6295(o)(2)(B)(i)(V) and (B)(ii). See also 42 U.S.C. 6316(b)(1) (applying 42 U.S.C. 6295(o) to CUACs, CUHPs, and CWAFs). DOE published an SNOPR containing energy conservation standards identical to those set forth the direct final rule and transmitted a copy of the direct final rule and the accompanying technical support document ("TSD") to the Attorney General, requesting that the U.S. Department of Justice provide its determination on this issue. DOE has published DOJ's comments at the end of this notice.

DOJ reviewed the amended standards in the direct final rule and the final TSD provided by DOE. As a result of its analysis, DOJ concluded that the amended standards issued in the direct final rule are unlikely to have a significant adverse impact on competition.

IV. National Environmental Policy Act

Pursuant to the National Environmental Policy Act of 1969 ("NEPA"), DOE has determined that the rule fits within the category of actions included in Categorical Exclusion ("CX") B5.1 and otherwise meets the requirements for application of a CX. See 10 CFR Part 1021, App. B, B5.1(b); 1021.410(b) and App. B, B(1)-(5). The rule fits within the category of actions because it is a rulemaking that establishes energy conservation standards for consumer products or industrial equipment, and for which none of the exceptions identified in CX B5.1(b) apply. Therefore, DOE has made a CX determination for this rulemaking, and DOE does not need to prepare an Environmental Assessment or Environmental Impact Statement for this rule. DOE's CX determination for this rule is available at http://energy.gov/nepa/categorical-exclusion-cx-determinations-cx.

V. Conclusion

In summary, based on the discussion above, DOE has determined that the comments received in response to the direct final rule for amended energy conservation standards for CUACs, CUHPs, and CWAFs do not provide a reasonable basis for withdrawal of the direct final rule. As a result, the amended energy conservation standards set forth in the direct final rule became effective on May 16, 2016. Compliance with these amended standards is required for small, large, and very large CUACs and CUHPs starting on January 1, 2018, for the first set of standards and January 1, 2023, for the second set of standards. Compliance with the amended standards established for CWAFs is required starting on January 1, 2023.

Issued in Washington, DC, on May 13, 2016.

David Friedman
Principal Deputy Assistant Secretary
Energy Efficiency and Renewable Energy

Appendix

[The following letter from the Department of Justice will not appear in the Code of Federal Regulations.]

U.S. DEPARTMENT OF JUSTICE

Antitrust Division

RFK Main Justice Building 950 Pennsylvania Avenue, N.W. Washington, D.C. 20530-0001 (202)514-2401 / (202)616-2645 (Fax)

March 15, 2016

Anne Harkavy

Deputy General Counsel

for Litigation, Regulation and Enforcement U.S.

Department of Energy Washington, DC 20585

Re: Energy Conservation Standards for Small, Large, and Very Large Air- Cooled Commercial Package Air Conditioning and Heating Equipment and Commercial Warm Air Furnaces Doc. Nos. EERE-2013-BT-STD-0007 and EERE-2013-BT-STD-0021

Dear Deputy General Counsel Harkavy:

I am responding to your January 15, 2016, letter seeking the views of the Attorney General about the potential impact on competition of proposed energy conservation standards for certain types of commercial warm air furnace equipment, commercial air-conditioning equipment and commercial heat pump equipment. Your request was submitted under Section 325(o)(2)(B)(i)(V) of the Energy Policy and Conservation Act, as amended (ECPA), 42 U.S.C.

6295(o)(2)(B)(i)(V), which requires the Attorney General to make a determination of the impact of any lessening of competition that is likely to result from the imposition of proposed energy conservation standards. The Attorney General's responsibility for responding to requests from other departments about the effect of a program on competition has been delegated to the Assistant Attorney General for the Antitrust Division in 28 CFR § 0.40(g).

In conducting its analysis, the Antitrust Division examines whether a proposed standard may lessen competition, for example, by substantially limiting consumer choice or increasing industry concentration. A lessening of competition could result in higher prices to manufacturers and consumers.

We have reviewed the proposed standards contained in the Supplemental Notice of Proposed Rulemaking (81 Fed. Reg. 2111 & 2420, January 15, 2016) and the related Technical Support Documents.

Based on this review, our conclusion is that the proposed energy conservation standards for commercial warm air furnace equipment, commercial air-conditioning equipment, and commercial heat pump equipment are unlikely to have a significant adverse impact on competition.

Sincerely,

William J. Baer