**[6450-01-P]**

**DEPARTMENT OF ENERGY**

**Case No. 2017-013**

**Notice of Petition for Waiver of GD Midea Heating & Ventilating Equipment Co., Ltd. from the Department of Energy Central Air Conditioners and Heat Pumps Test Procedure, and Notice of Grant of Interim Waiver**

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

**ACTION:** Notice of petition for waiver and grant of an interim waiver, and request for comments.

**SUMMARY:** This notice announces receipt of and publishes a petition for waiver from GD Midea Heating & Ventilating Equipment Co., Ltd. (GD Midea) seeking a waiver from the U.S. Department of Energy (DOE) test procedure for determining the efficiency of central air conditioners (CACs) and heat pumps (HPs). GD Midea seeks to use an alternate test procedure to address issues involved in testing certain basic models identified in its petition. According to GD Midea, the Appendix M test procedure does not include a method for testing specified CAC and HP basic models that use variable-speed compressors and are matched with a coil-only indoor unit (hereafter referred to as "variable-speed coil-only single-split systems"). GD Midea requests that it be permitted to test its variable-speed coil-only single-split systems with the cooling full-load air volume rate used as both the cooling intermediate and minimum air volume rates, and the heating full-load air volume rate used as the heating intermediate air volume rate. This notice announces that DOE grants GD Midea an interim waiver from the DOE CAC and HP test procedure for its specified basic models, subject to use of the alternate test procedure as set

forth in the Order. DOE solicits comments, data, and information concerning GD Midea's petition and the alternate test procedure.

**DATES:** DOE will accept comments, data, and information with respect to the GD Midea petition until **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

**ADDRESSES:** Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at *http://www.regulations.gov*. Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by case number "2017-013" and Docket number "EERE-2017-BT-WAV-0060," by any of the following methods:

- *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- *E-mail: Midea2017WAV0060@ee.doe.gov*. Include the case number *[Case No. 2017-013]* in the subject line of the message.
- *Postal Mail*: Ms. Lucy deButts, U.S. Department of Energy, Building Technologies Office, Mailstop EE-5B, Petition for Waiver Case No. 2017-013, 1000 Independence Avenue, SW., Washington, DC 20585-0121. If possible, please submit all items on a compact disc (CD), in which case it is not necessary to include printed copies.
- *Hand Delivery/Courier*: Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, 950 L'Enfant Plaza, SW., 6th Floor, Washington, DC, 20024. Telephone: (202) 287-1445. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

No telefacsimilies (faxes) will be accepted. For detailed instructions on submitting comments and additional information on this process, see section V of this document.

*Docket*: The docket, which includes *Federal Register* notices, comments, and other supporting documents/materials, is available for review at *http://www.regulations.gov*. All documents in the docket are listed in the *http://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.

The docket Web page can be found *at http://www.regulations.gov/docket?D=EERE-2017-BT-WAV-0060.* The docket Web page contains instruction on how to access all documents, including public comments, in the docket. See section V for information on how to submit comments through *http://www.regulations.gov*.

**FOR FURTHER INFORMATION CONTACT:** Ms. Lucy deButts, U.S. Department of Energy, Building Technologies Program, Mail Stop EE-5B, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585-0121. E-mail: *AS_Waiver_Requests@ee.doe.gov*.

Mr. Pete Cochran, U.S. Department of Energy, Office of the General Counsel, Mail Stop GC-33, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585-0103. Telephone: (202) 586-9496. E-mail: *peter.cochran@hq.doe.gov*.

**SUPPLEMENTARY INFORMATION:**

## I. Background and Authority

Title III, Part B[1] of the Energy Policy and Conservation Act of 1975 (EPCA), Public Law 94-163 (42 U.S.C. 6291-6309, as codified) established the Energy Conservation Program for Consumer Products Other Than Automobiles, which includes central air conditioners and heat pumps.[2] Part B includes definitions, test procedures, labeling provisions, energy conservation standards, and the authority to require information and reports from manufacturers. Further, Part B requires 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 during a representative average-use cycle, and that are not unduly burdensome to conduct. (42 U.S.C. 6293(b)(3)) The test procedure for central air conditioners and heat pumps is contained in 10 CFR part 430, subpart B, appendix M (referred to in this notice as "appendix M").

DOE's regulations set forth at 10 CFR 430.27 contain provisions that allow a person to seek a waiver from the test procedure requirements for a particular basic model of a covered product when the petitioner's basic model for which the petition for waiver was submitted contains one or more design characteristics that either (1) prevent testing according to the prescribed test procedure, or (2) cause the prescribed test procedures to 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). A petitioner must include in its

[1] For editorial reasons, upon codification in the U.S. Code, Part B was re-designated as Part A.
[2] All references to EPCA in this document refer to the statute as amended through the EPS Improvement Act of 2017, Public Law 115–115 (January 12, 2018).

petition any alternate test procedures known to the petitioner to evaluate the basic model in a manner representative of its energy consumption. 10 CFR 430.27(b)(1)(iii).

DOE may grant a waiver subject to conditions, including adherence to alternate test procedures. 10 CFR 430.27(f)(2). As soon as practicable after the granting of any waiver, DOE will publish in the *Federal Register* a notice of proposed rulemaking to amend its regulations so as to eliminate any need for the continuation of such waiver. As soon thereafter as practicable, DOE will publish in the *Federal Register* a final rule. 10 CFR 430.27(l).

The waiver process also allows DOE to grant an interim waiver if it appears likely that the petition for waiver will be granted and/or if DOE 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(e)(2). Within one year of issuance of an interim waiver, DOE will either: (i) publish in the *Federal Register* a determination on the petition for waiver; or (ii) publish in the *Federal Register* a new or amended test procedure that addresses the issues presented in the waiver. 10 CFR 430.27(h)(1). When DOE amends the test procedure to address the issues presented in a waiver, the waiver will automatically terminate on the date on which use of that test procedure is required to demonstrate compliance. 10 CFR 430.27(h)(2).

## II. GD Midea's Petition for Waiver of Test Procedure and Application for Interim Waiver

On October 27, 2017, GD Midea filed a petition for waiver and an application for interim waiver from the CAC and HP test procedure set forth in Appendix M. According to GD Midea,

Appendix M does not include provisions for determining cooling intermediate air volume rate, cooling minimum air volume rate, and heating intermediate air volume rate for its variable-speed coil-only single-split systems. Consequently, GD Midea cannot test or rate these systems in accordance with the DOE test procedure. GD Midea stated that its variable-speed outdoor units are non-communicative systems (i.e., the outdoor unit does not communicate with the indoor unit) for which compressor speed varies based only on controls located on the outdoor unit and the indoor unit maintains a constant indoor blower fan speed.

GD Midea seeks to use an alternate test procedure to test and rate specific CAC and HP basic models of its variable-speed coil-only single-split systems, which would specify the use of cooling full-load air volume rates as determined in section 3.1.4.1.1.c of Appendix M as cooling intermediate and cooling minimum air volume rates, and would specify the use of heating full-load air volume rates as determined in section 3.1.4.4.1.a of Appendix M as heating intermediate air volume rate.

GD Midea also requests an interim waiver from the existing DOE test procedure. An interim waiver may be granted if it appears likely that the petition for waiver will be granted, and/or if DOE determines that it would be desirable for public policy reasons to grant immediate relief pending a determination of the petition for waiver. See 10 CFR 430.27(e)(2).

DOE understands that absent an interim waiver, the specified variable-speed coil-only single-split models that are subject of the waiver cannot be tested under the existing test procedure because Appendix M does not include provisions for determining certain air volume rates for variable-speed coil-only single-split systems. Typical variable-speed single-split systems have a communicating system, *i.e.*, the outdoor units and indoor units communicate and

indoor unit air flow varies based on the operation of the outdoor unit. However, as presented in GD Midea's petition, its variable-speed outdoor units are non-communicative systems and the indoor blower section maintains a constant indoor blower fan speed.

## III. Requested Alternate Test Procedure

EPCA requires that manufacturers use DOE test procedures to make representations about the energy consumption and energy consumption costs of products covered by the statute. (42 U.S.C. 6293(c)) Consistent representations are important for manufacturers to use in making representations about the energy efficiency of their products and to demonstrate compliance with applicable DOE energy conservation standards. Pursuant to its regulations applicable to waivers and interim waivers from applicable test procedures at 10 CFR 430.27, and after consideration of public comments on the petition, DOE will consider setting an alternate test procedure for the equipment identified by GD Midea in a subsequent Decision and Order.

In its petition, GD Midea requests that specified basic models listed in the petition be tested according to the test procedure for central CACs and HPs prescribed by DOE at Appendix M, except that for coil-only systems, the cooling full-load air volume rate is also used as the cooling intermediate and cooling minimum air volume rates, and the heating full-load air volume rate is used as the heating intermediate air volume rate.

## IV. Summary of Grant of an Interim Waiver

DOE has reviewed GD Midea's petition for interim waiver, the alternate procedure requested by GD Midea, and public-facing materials (e.g., marketing materials, product specification sheets, and installation manuals) for the units identified in its petition. The public-facing materials that DOE reviewed support GD Midea's assertion that the units it identifies are

installed as variable-speed coil-only systems, in which the indoor fan speed remains constant at full and part-load operation. Since there is no variability in indoor fan speed, using the cooling full-load air volume rate for the cooling intermediate and cooling minimum air volume rates, and the heating full load air volume rate as the heating intermediate air volume rate appears appropriate. Based on this review, the alternate test procedure appears to allow for the accurate measurement of efficiency of these products, while alleviating the testing problems associated with GD Midea's implementation of CAC and HP testing for the basic models specified in GD Midea's petition. Consequently, GD Midea's petition for waiver will likely be granted. Furthermore, DOE has determined that it is desirable for public policy reasons to grant GD Midea immediate relief pending a determination on the petition for waiver. For the reasons stated above, DOE has granted an interim waiver to GD Midea for the specified CAC and HP basic models in GD Midea's petition.

Therefore, DOE has issued an **Order**, stating:

(1) GD Midea must test and rate the GD Midea Heating & Ventilating Equipment Co., Ltd brand and Bosch Thermotechnology Corp brand single-split CAC and HP basic models MOVA-36HDN1-M18M and MOVA-60HDN1-M18M (which contain individual combinations that each consist of an outdoor unit that uses a variable speed compressor matched with a coil-only indoor unit, and is designed to operate as part of a non-communicative system in which the compressor speed varies based only on controls located in the outdoor unit and the indoor blower unit maintains a constant indoor blower fan speed), using the alternate test procedure set forth in paragraph (2).

GD Midea basic models MOVA-36HDN1-M18M and MOVA-60HDN1-M18M include the following individual combinations listed by brand name:

| GD MIDEA HEATING & VENTILATING EQUIPMENT CO., LTD (Brand) | | | BOSCH THERMOTECHNOLOGY CORP (Brand) | | |
|---|---|---|---|---|---|
| Basic Model Number | Outdoor Unit | Indoor Unit | Basic Model Number | Outdoor Unit | Indoor Unit |
| MOVA-36HDN1-M18M | MOVA-36HDN1-M18M | MC**2430ANTF | MOVA-36HDN1-M18M | BOVA-36HDN1-M18M | BMA*2430ANTD |
| MOVA-36HDN1-M18M | MOVA-36HDN1-M18M | MC**2430BNTF | MOVA-36HDN1-M18M | BOVA-36HDN1-M18M | BMA*2430BNTD |
| MOVA-36HDN1-M18M | MOVA-36HDN1-M18M | MC**3036ANTD | MOVA-36HDN1-M18M | BOVA-36HDN1-M18M | BMA*3036ANTD |
| MOVA-36HDN1-M18M | MOVA-36HDN1-M18M | MC**3036BNTD | MOVA-36HDN1-M18M | BOVA-36HDN1-M18M | BMA*3036BNTD |
| MOVA-36HDN1-M18M | MOVA-36HDN1-M18M | MC**3036CNTD | MOVA-36HDN1-M18M | BOVA-36HDN1-M18M | BMA*3036CNTD |
| MOVA-60HDN1-M18M | MOVA-60HDN1-M18M | MC**4248BNTF | MOVA-60HDN1-M18M | BOVA-60HDN1-M18M | BMA*4248BNTF |
| MOVA-60HDN1-M18M | MOVA-60HDN1-M18M | MC**4248CNTF | MOVA-60HDN1-M18M | BOVA-60HDN1-M18M | BMA*4248CNTF |
| MOVA-60HDN1-M18M | MOVA-60HDN1-M18M | MC**4248DNTF | MOVA-60HDN1-M18M | BOVA-60HDN1-M18M | BMA*4248DNTF |
| MOVA-60HDN1-M18M | MOVA-60HDN1-M18M | MC**4860CNTF | MOVA-60HDN1-M18M | BOVA-60HDN1-M18M | BMA*4860CNTF |
| MOVA-60HDN1-M18M | MOVA-60HDN1-M18M | MC**4860DNTF | MOVA-60HDN1-M18M | BOVA-60HDN1-M18M | BMA*4860DNTF |

(2) The applicable method of test for the GD Midea basic models identified in paragraph (1) is the test procedure for CACs and HPs prescribed by DOE at 10 CFR part 430, subpart B, appendix M, except that, for coil-only combinations: the cooling full-load air volume rate as determined in section 3.1.4.1.1.c of Appendix M shall also be used as the cooling intermediate and cooling minimum air volume rates, and the heating full-load air volume rate as determined in section 3.1.4.4.1.a of Appendix M shall also be used as the heating intermediate air volume rate, as detailed below. All other requirements of Appendix M and DOE's regulations remain applicable.

In 3.1.4.2, *Cooling Minimum Air Volume Rate*, include:

f. For ducted variable-speed compressor systems tested with a coil-only indoor unit, the cooling minimum air volume rate is the same as the cooling full-load air volume rate determined in section 3.1.4.1.1.c.

In 3.1.4.3, *Cooling Intermediate Air Volume Rate*, include:

d. For ducted variable-speed compressor systems tested with a coil-only indoor unit, the cooling intermediate air volume rate is the same as the cooling full-load air volume rate determined in section 3.1.4.1.1.c.

In 3.1.4.6, *Heating Intermediate Air Volume Rate*, include*:*

d. For ducted variable-speed compressor systems tested with a coil-only indoor unit, the heating intermediate air volume rate is the same as the heating full-load air volume rate determined in section 3.1.4.4.1.a.

(3) Representations. GD Midea is permitted to make representations about the efficiency of basic models that meet the requirements of paragraph (1) for compliance, marketing, or other purposes only to the extent that the basic model has been tested in accordance with the provisions set forth in the alternate test procedure and such representations fairly disclose the results of such testing in accordance with 10 CFR 429.16 and 10 CFR part 430, subpart B, appendix M.

(4) This interim waiver shall remain in effect consistent with the provisions of 10 CFR 430.27(h) and (k).

(5) This interim waiver is issued to GC Midea on the condition that the statements, representations, and documentary materials provided by the petitioner are valid. If GD Midea makes any modifications to the controls or configurations of these basic models, the waiver would no longer be valid and GD Midea would either be required to use the current Federal test method or submit a new application for a test procedure waiver. DOE may revoke or modify this

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.

(6) Granting of this interim waiver does not release GD Midea from the certification requirements set forth at 10 CFR part 429.

DOE makes decisions on waivers and interim waivers for only those basic models specifically set out in the petition, not future basic models that may be manufactured by the petitioner. GD Midea may submit a new or amended petition for waiver and request for grant of interim waiver, as appropriate, for additional basic models of central air conditioners and heat pumps. Alternatively, if appropriate, GD Midea may request that DOE extend the scope of a waiver or an interim waiver to include additional basic models employing the same technology as the basic model(s) set forth in the original petition consistent with 10 CFR 430.27(g).

## V. Request for Comments

DOE is publishing GD Midea's petition for waiver in its entirety, pursuant to 10 CFR 430.27(b)(1)(iv). The petition did not identify any information as confidential business information. The petition includes a suggested alternate test procedure, as specified in section III of this notice, to determine the energy consumption of GD Midea's specified CAC and HP basic models. DOE may consider including the alternate procedure specified in the Order in a subsequent Decision and Order.

DOE invites all interested parties to submit in writing by [**INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER***], comments and information on all aspects of the petition, including the alternate test procedure. Pursuant to 10

CFR 430.27(d), any person submitting written comments to DOE must also send a copy of such comments to the petitioner. The contact information for the petitioner is Jack Wang, Certification Engineer, GD Midea Heating & Ventilating Equipment Co., Ltd., Midea Industrial City, Beijiao, Shunde District Foshan, Guangdong, P.R.C. 528311, *chao7.wang@midea.com.cn*.

Submitting comments via *http://www.regulations.gov*. The *http://www.regulations.gov* web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to *http://www.regulations.gov* information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (CBI)). Comments submitted through *http://www.regulations.gov* cannot be claimed as CBI. Comments received through the website

will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

DOE processes submissions made through *http://www.regulations.gov* before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that *http://www.regulations.gov* provides after you have successfully uploaded your comment.

Submitting comments via email, hand delivery, or mail. Comments and documents submitted via email, hand delivery, or mail also will be posted to *http://www.regulations.gov*. If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information on a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via mail or hand delivery, please provide all items on a CD, if feasible. It is not necessary to submit printed copies. No facsimiles (faxes) will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, written in English and free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. 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 via email, postal mail, or hand delivery two well-marked copies: one copy of the document marked confidential including all the information believed to be confidential, and one copy of the document marked "non-confidential" with the information believed to be confidential deleted. Submit these documents via email or on a CD, if feasible. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

Factors of interest to DOE when evaluating requests to treat submitted information as confidential include (1) a description of the items, (2) whether and why such items are customarily treated as confidential within the industry, (3) whether the information is generally known by or available from other sources, (4) whether the information has previously been made available to others without obligation concerning its confidentiality, (5) an explanation of the competitive injury to the submitting person which would result from public disclosure, (6) when such information might lose its confidential character due to the passage of time, and (7) why disclosure of the information would be contrary to the public interest.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

Signed in Washington, DC, on May 17, 2018.

Kathleen B. Hogan, Ph.D.
Deputy Assistant Secretary for Energy Efficiency
Energy Efficiency and Renewable Energy