

Enforcement Policy Statement: Split-System Central Air Conditioners Without HSVC

December 16, 2015

In the November 9, 2015 central air conditioner test procedure supplemental notice of proposed rulemaking (80 FR 69278), DOE explained that it had been using its enforcement discretion not to seek civil penalties for split-system central air conditioners that were in distribution in commerce but had not been tested in accordance with the DOE test procedure. Although the issue can arise in other contexts, the majority of these air conditioners are split-system central air conditioners designed for use with the R-22 refrigerant and are sold dry-charged pursuant to a regulation issued by the Environmental Protection Agency (EPA).

The current DOE test procedure requires manufacturers to test the “highest sales volume combination” (HSVC) Because the EPA regulation prohibits sales of split-system central air conditioners as complete systems (sale of outdoor units or indoor units only is permitted), manufacturers do not--- indeed cannot, by law---have a highest sales volume combination.

DOE regulations permit manufacturers to seek an alternate test method where a model cannot be tested in accordance with the DOE test procedure; however, no manufacturers have sought a test procedure waiver.

Effective immediately, DOE will begin investigating the methods manufacturers are using to represent the efficiency of central air conditioners that do not have a highest sales volume combination. DOE strongly encourages manufacturers to seek test procedure waivers to come into compliance with the existing regulations. DOE will continue to use its discretion in determining whether or to what extent civil penalties are appropriate based on its findings, including what good-faith efforts the manufacturer may have taken to comply. A key factor will be whether a manufacturer introduced model(s) after DOE issued the air conditioner test procedure supplemental notice of proposed rulemaking – at which point there could have been no confusion as to whether these central air conditioners could be tested and rated using the current test procedure.

Furthermore, DOE will seek civil penalties for violations of 10 CFR Parts 429 and 430 with respect to units of unmatched central air conditioners and central air conditioning heat pumps manufactured on or after February 1, 2016. Accordingly, manufacturers may not use the proposed methodology to demonstrate compliance without a test procedure waiver. Therefore, DOE will seek civil penalties for units manufactured on or after February 1, 2016, for which the manufacturer has not tested and ensured compliance in accordance with DOE regulations, which includes having tested in accordance with the DOE test procedure or applicable waiver.

Manufacturers, distributors and contractors should also be aware that regional standards became effective on January 1, 2015. DOE is enforcing compliance with those standards with respect to units manufactured on or after January 1, 2015. (See [Regional Standards Enforcement Policy](#).)