Date	Document	ADAMS Accession No./ **Federal Register** citation
October 7, 2015	SECY–15–0127, ''Schedule, Resource Estimates, and Impacts for the Power Reactor Decommissioning Rulemaking''.	Non-publicly available.

The NRC may post additional materials to the Federal rulemaking Web site at *www.regulations.gov,* under Docket NRC–2015–0070. The Federal rulemaking Web site allows you to receive alerts when changes or additions occur in a docket folder. To subscribe: (1) Navigate to the docket folder [NRC–2015Y–0070]; (2) click the ''Sign up for Email Alerts'' link; and (3) enter your email address and select how frequently you would like to receive emails (daily, weekly, or monthly).

X. Rulemaking Process

The NRC does not intend to provide detailed comment responses for information provided in response to this ANPR. The NRC will consider comments on this ANPR in the rule development process. If the NRC develops a regulatory basis sufficient to support a proposed rule, there will be an opportunity for additional public comment when the draft regulatory basis and the proposed rule are published. If supporting guidance is developed for the proposed rule, stakeholders will have an opportunity to provide feedback on the guidance as well. Alternatively, if the regulatory basis does not provide sufficient support for a proposed rule, the NRC will publish a **Federal Register** notice withdrawing this ANPR and summarizing the public comments received on this ANPR.

Dated at Rockville, Maryland, this 6th day of November 2015.

For the U.S. Nuclear Regulatory Commission.

Frederick D. Brown,

Acting Executive Director for Operations.

[FR Doc. 2015–29536 Filed 11–18–15; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF ENERGY

10 CFR Parts 429 and 430

[Docket No. EERE–2011–BT–CE–0077]

RIN 1904–AC68

Energy Conservation Program: Enforcement of Regional Standards for Central Air Conditioners

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

ACTION: Notice of proposed rulemaking.

SUMMARY: The U.S. Department of Energy (DOE) is proposing requirements related to the enforcement of regional standards for central air conditioners, as authorized by the Energy Policy and Conservation Act (EPCA) of 1975.

DATES: DOE will accept comments, data, and information regarding this notice of proposed rulemaking (NOPR) no later than January 4, 2016.

In compliance with the Paperwork Reduction Act, DOE is also seeking comment on a new information collection. See the Paperwork Reduction Act section under Procedural Issues and Regulatory Review, section III.C. Please submit all comments relating to information collection requirements to DOE no later than January 19, 2016. Comments to OMB are most useful if submitted within 45 days of publication.

ADDRESSES: Any comments submitted must identify the NOPR for Enforcement of Regional Standards for Central Air Conditioners and provide docket number EERE–2011–BT–CE–0077 and/or regulatory information number (RIN) 1904–AC68. Comments may be submitted using any of the following methods:

1. *Federal eRulemaking Portal: www.regulations.gov.* Follow the instructions for submitting comments.

2. *Email: EnforcementFunCAC-2011-CE-0077@EE.Doe.Gov* Include the docket number and/or RIN in the subject line of the message.

3. *Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE–2J, 1000 Independence Avenue SW., Washington, DC 20585–0121. If possible, please submit all items on a CD. It is not necessary to include printed copies.

4. *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, 950 L'Enfant Plaza SW., Suite 600, Washington, DC 20024. Telephone: (202) 586–2945. If possible, please submit all items on a CD. It is not necessary to include printed copies.

Docket: The docket, which includes **Federal Register** notices, public meeting attendee lists and transcripts, comments, and other supporting documents/materials, is available for review at regulations.gov. All documents in the docket are listed in the 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/#!docketDetail;D=EERE-2011-BT-CE-0077.*

For further information on how to submit a comment, review other public comments and the docket, or participate in the public meeting, contact Ms. Brenda Edwards at (202) 586–2945 or by email: *Brenda.Edwards@ee.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Ashley Armstrong, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, EE–5B, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: 202–586–6590. Email: *Ashley.Armstrong@ee.doe.gov.*

Laura Barhydt, U.S. Department of Energy, Office of the General Counsel, GC–32, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 287–5772. Email: *Laura.Barhydt@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

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I. Authority and Background

A. Authority

Title III of the Energy Policy and Conservation Act of 1975, as amended (''EPCA'' or, in context, ''the Act'') sets forth a variety of provisions designed to improve energy efficiency.[1] Part A of Title III (42 U.S.C. 6291–6309) establishes the ''Energy Conservation Program for Consumer Products Other Than Automobiles.'' These consumer products include central air conditioners, which are the subject of this rule. (42 U.S.C. 6295(d))

Under EPCA, this program consists essentially of four parts: (1) Testing; (2) labeling; (3) Federal energy conservation standards; and (4) certification and enforcement procedures. The Federal Trade Commission (FTC) is primarily responsible for labeling consumer products, and DOE implements the remainder of the program.

Pursuant to EPCA, any new or amended energy conservation standards for covered consumer products must be designed to achieve the maximum improvement in energy efficiency that are technologically feasible and economically justified. (42 U.S.C. 6295(o)(2)(A)) Furthermore, the new or amended standard must result in significant conservation of energy. (42 U.S.C. 6295(o)(3)(B)) The Energy Independence and Security Act of 2007 (EISA 2007) amended EPCA to require that DOE consider regional standards for certain products if the regional standards can save significantly more energy than a national standard and are economically justified. (42 U.S.C. 6295(o)(6)(A)) Under EPCA, DOE is authorized to establish up to two additional regional standards for central air conditioners and heat pumps. (42 U.S.C. 6295(o)(6)(B)(ii)) DOE must initiate an enforcement rulemaking after DOE issues a final rule that establishes a regional standard. (42 U.S.C. 6295(o)(6)(G)(ii)(I)) DOE must also issue a final rule for enforcement after DOE issues a final rule that establishes a regional standard. (42 U.S.C. 6295(o)(6)(G)(ii)(III))

B. Background

On June 27, 2011, DOE promulgated a Direct Final Rule (June 2011 DFR) that, among other things, established regional standards for central air conditioners. 76 FR 37408. DOE subsequently published a notice of effective date and compliance date for the June 2011 DFR on October 31, 2011, setting a standards compliance for central air conditioners and heat pumps of January 1, 2015. 76 FR 67037.

As required by EPCA, DOE initiated an enforcement rulemaking by publishing a notice of data availability (NODA) in the **Federal Register** that proposed three approaches to enforcing regional standards for central air conditioners. 76 FR 76328 (December 7, 2011). DOE received numerous comments expressing a wide range of concerns in response to this NODA. Consequently, on June 13, 2014, DOE published a notice of intent to form a working group to negotiate regulations for the enforcement of regional standards for central air conditioners and requested nominations from parties interested in serving as members of the Working Group. 79 FR 33870. On July 16, 2014, the Department published a notice of membership announcing the eighteen nominations that were selected to serve as members of the Working Group, in addition to two members from Appliance Standards and Rulemaking Federal Advisory Committee (ASRAC), and one DOE representative.[2] 79 FR 41456. The members of the Working Group were selected by ASRAC to ensure a broad and balanced array of stakeholder interests and expertise, and included efficiency advocates, manufacturers, utility representatives, contractors, and distributors. *Id.*

As required, the Working Group submitted a final report to ASRAC on October 24, 2014, summarizing the group's recommendations for DOE's rule for enforcement of regional standards for central air conditioners. Working Group Recommendations, No. 70.[3] The recommendations included a statement that the nongovernmental participants conditionally approved the recommendations contingent upon the issuance of the final guidance (See No. 89 and No. 90 for the draft versions) consistent with the understanding of the Working Group as set forth in these recommendations. Working Group Recommendations, No. 70 at 37. ASRAC subsequently voted to approve these recommendations on December 1, 2014. ASRAC Meeting Transcript, No. 73 at 42–43. In this document, DOE is proposing to adopt the Working Group's recommendations. Working Group Recommendations, No. 70.

After consideration of the comments received in response to the guidance documents, DOE determined that regulatory changes were necessary to implement the approach agreed to by the Working Group. Accordingly, DOE has proposed changes to the unit selection and testing requirements in a parallel test procedure rulemaking (CAC TP SNOPR). 80 FR 69278 (November 9, 2015). DOE reaffirms its commitment to the approach advocated by the Working Group, subject to consideration of comments received in this and the test procedure rulemaking.

II. Discussion

Between August 13, 2014, and October 24, 2014,[4] the Working Group held fourteen full public meetings in Washington, DC, primarily at the DOE headquarters.[5] Thirty-seven interested parties, including members of the Working Group, attended the various meetings. Table II.1 lists the entities that attended the Working Group meetings and their affiliation. The Working Group's recommendations for enforcement of the regional standards for central air conditioners are presented in this proposed rule. A more detailed discussion of the recommendations can be found in the Working Group meeting transcripts.[6]

[1] All references to EPCA in this document refer to the statute as amended through the Energy Efficiency Improvement Act of 2015, Public Law 114–11 (Apr. 30, 2015).

[2] The list of members is published in Table II.1.

[3] A notation in this form provides a reference for information that is in the docket for this rulemaking (Docket No. EERE–2011–BT–CE–0077), which is maintained at *www.regulations.gov*. This notation indicates that the statement preceding the reference is from document number 70 in the docket.

[4] The Working Group met on August 13, 2014; August 14, 2014; August 26, 2014; August 27, 2014; August 28, 2014; September 3, 2014; September 4, 2014; September 24, 2014; September 25, 2014; October 1, 2014; October 2, 2014; October 15, 2014; October 16, 2014; and October 24, 2014.

[5] Due to conflicts at DOE, the August 27th meeting took place at ACEEE's office in Washington, DC.

[6] Docket Folder, Energy Conservation Program: Enforcement of Regional Standards for Residential Furnaces and Central Air Conditioners and Heat Pumps, *http://www.regulations.gov/#!docketDetail;D=EERE-2011-BT-CE-0077* (last visited Aug. 26, 2015).

TABLE II.1—INTERESTED PARTIES

Name	Acronym	Organization type	Working group membership (Y/N)
Air Conditioning Contractors of America	ACCA	Contractor Association	Y
Air Conditioning, Heating, and Refrigeration Institute.	AHRI	Manufacturer Trade Association	Y
Allied Air Enterprises	Allied Air	Manufacturer	Y
American Council for an Energy-Efficient Economy.	ACEEE	Energy Efficiency Advocacy Group	Y
American Public Gas Association	APGA	Utility Association	
California Energy Commission	CEC	California State Government Agency	Y
California Investor Owned Utilities	CA IOUs	Utility Association	
Carrier Corporation	Carrier	Manufacturer	Y
Daikin Corporation	Daikin	Manufacturer	
EarthJustice		Energy Efficiency Advocacy Group	Y
Edison Electric Institute	EEI	Utility Association	
Emerson		Manufacturer	
First Co.		Manufacturer	
Goodman Global, Inc.	Goodman	Manufacturer	Y
Scott Harris*		Appliance Standards and Rulemaking Federal Advisory Committee (ASRAC).	Y
Heating, Air-conditioning and Refrigeration Distributors International.	HARDI	Distributor Trade Association	
Ingersoll Rand		Manufacturer	Y
Johnson Controls Inc	JCI	Manufacturer	Y
Johnstone Supply		Distributor	Y
Lennox International, Inc.	Lennox	Manufacturer	
Lincoln Electric Cooperative		Utility	Y
McDermott Will & Emery		Law Firm	
Mortex Products, Inc.	Mortex	Manufacturer	
National Association of Home Builders	NAHB	Trade Association	
National Comfort Products		Manufacturer	
National Consumer Law Center*		Consumer Advocacy Group	Y
National Rural Electric Cooperative Association	NRECA	Utility Association	
Natural Resources Defense Council	NRDC	Energy Efficiency Advocacy Group	Y
New York State Office of Attorney General		Government Agency	
NORDYNE Inc.	NORDYNE	Manufacturer	Y
Pacific Gas and Electric Company	PG&E	Utility	Y
Plumbing-Heating-Cooling Contractors—National Association.	PHCC	Contractor Association	Y
Pacific Northwest National Laboratory	PNNL	U.S. Government Research Laboratory	
Regal-Beloit Corporation	Regal-Beloit	Manufacturer	
Rheem Manufacturing Company	Rheem	Manufacturer	Y
Unico, Inc.	Unico	Manufacturer	
Xcel Energy*		Utility Association	Y

* Withdrew from working group.

A. Regional Standards

As discussed in section I.B, DOE adopted regional standards for central air conditioners in its June 2011 DFR. That rule set regional standards for split-system central air conditioners and single-package central air conditioners. 10 CFR 430.32(c). A split-system central air conditioner is a type of air conditioner that has one or more of its major assemblies separated from the others. Typically, the air conditioner has a condensing unit (''outdoor unit'') that is separate from the evaporator coil and/or blower (''indoor unit''). Accordingly, a split-system condensing unit is often sold separately from the indoor unit and may be matched with several different models of indoor units and/or blowers. For this reason, a condensing unit could achieve a 14 SEER or above if it is paired with certain indoor units and/or blowers and could perform below 14 SEER when paired with other indoor units and/or blowers.

The Working Group suggested the regional standards required clarification because a particular condensing unit may have a range of efficiency ratings when paired with various indoor evaporator coils and/or blowers. The Working Group provided the following four recommendations to clarify the regional standards: that (1) the least efficient rated combination for a specified model of condensing unit must be 14 SEER for models installed in the Southeast and Southwest regions; (2) the least efficient rated combination for a specified model of condensing unit must meet the minimum EER for models installed in the Southwest region; (3) any condensing unit model that has a certified combination that is below the regional standard(s) cannot be installed in that region; and (4) a condensing unit model certified below a regional standard by the original equipment manufacturer cannot be installed in a region subject to a regional standard(s) even with an independent coil manufacturer's indoor coil or air handler combination that may have a certified rating meeting the applicable regional standard(s). Working Group Recommendations, No. 70 at 4.

DOE is proposing to adopt these recommendations as part of this NOPR and requests comment on these recommendations. DOE notes that the test procedure supplemental notice of proposed rulemaking (CAC TP SNOPR) proposes multiple regulatory changes necessary to implement these recommendations. See the CAC TP

SNOPR for those detailed proposals. 80 FR 69278. In addition, DOE has proposed two alternatives to implement the clarification with respect to the standards. In this rulemaking, DOE proposes to specify that any condensing unit model that has a certified combination with a rating below 14 SEER cannot be installed in the Southeast and Southwest United States. To clarify responsibility with respect to split-system air conditioners, this rulemaking proposes that a condensing unit model certified below 14 SEER by the outdoor unit manufacturer cannot be installed in those regions even if an independent coil manufacturer certifies an indoor coil or air handler combination with that outdoor unit with a rating at or above 14 SEER. In contrast, in the test procedure rulemaking, DOE proposes to specify that the least efficient combination of each basic model must comply with the regional standard, but provides additional parameters regarding what combinations are permitted to be certified. See, *e.g.,* 80 FR 69278 at 69290. The approach taken in this rulemaking relies less on some of the other regulatory changes that are necessary to implement the policies the Working Group advocated with respect to the guidance documents; the approach taken in the test procedure rulemaking would require the additional regulatory changes with respect to unit selection and testing. DOE requests comment on the two approaches, whether interested parties consider one approach to be easier to understand, and what the pros or cons may be of the two alternatives.

B. Definitions

EPCA prohibits manufacturers from selling to ''distributors, contractors, or dealers that routinely violate the regional standards.'' (42 U.S.C. 6302(a)(6)) EPCA defines a distributor as a person (other than a manufacturer or retailer) to whom a consumer appliance product is delivered or sold for purposes of distribution in commerce. (42 U.S.C. 6291(14))

Because neither EPCA nor existing DOE regulations define the terms ''contractor'' and ''dealer,'' the Working Group recommended the following definitions to further clarify the prohibited act:

Contractor means a person [7] (other than the manufacturer or distributor) who sells to and/or installs for an end user a central air conditioner subject to regional standards.

Dealer means a type of contractor, generally with a relationship with one or more specific manufacturers.

The Working Group further requested DOE make clear that in the context of the definition of ''contractor,'' the term ''end user'' means the entity that purchases or selects for purchase the central air conditioner. Some examples of typical ''end users'' are homeowners, building owners, building managers, and property developers.

Additionally, the Working Group recommended that DOE define the term ''installation'' as:

Installation of a central air conditioner means the connection of the refrigerant lines and/or electrical systems to make the central air conditioner operational.

In this NOPR, DOE proposes to adopt the Working Group's recommended definitions for these three terms and requests comments on these definitions. DOE also proposes to codify the definition of ''distributor.''

The Working Group requested that DOE make explicit in this proposed rule that, depending upon their particular conduct, parties conducting internet sales may be considered a contractor or distributor under the proposed definitions. Specifically, internet sellers that sell to contractors or dealers meet the definition of a ''distributor,'' while internet sellers that sell directly to home owners would qualify as ''contractors.'' Further, retailers who sell central air conditioners directly to homeowners would also fit within the definition of a ''contractor.''

While not specifically discussed by the Working Group, it is also of note that some internet sellers will be considered manufacturers if they are the importers of the product they are selling via the internet. Pursuant to EPCA, the term ''manufacturer'' includes importers. (42 U.S.C. 6291(10), (12)) Those parties that import products subject to regional standards are expected to meet the regulatory obligations of manufacturers.

In their discussion of definitions, members of the Working Group also raised the point that some manufacturers distribute their own product. DOE clarified that, consistent with EPCA's definitions of ''manufacturer'' and ''distributor,'' if a manufacturer distributes its own product, then the company (the manufacturer-owned or ''factory owned'' distributor) is considered to be a manufacturer rather than a distributor.

Since DOE received the recommendations of the Working Group from ASRAC, DOE has received questions about the applicability of the regional standards to private labelers. The Working Group did not address this issue. The statutory prohibited acts treat manufacturers and private labelers in the same way. (42 U.S.C. 6302(a)(6) (making it unlawful for ''any manufacturer or private labeler to knowingly sell a product to a distributor, contractor, or dealer with knowledge that the entity routinely violates any regional standard applicable to the product.'')) DOE notes that, although private labelers are liable for distribution in commerce of noncompliant products generally, DOE does not require private labelers to submit certification reports unless the private labeler is also the importer. Therefore, DOE believes that it may not be necessary for exactly the same requirements to apply to private labelers. Consequently, DOE is proposing that the same requirements apply to private labelers as discussed in more detail throughout this notice. However, DOE requests comment on whether these proposed requirements should be the same or whether different requirements should apply. DOE may adopt the same requirements as proposed today or some variation for private labelers in the final rule as a result of comments received.

C. Public Awareness

The Working Group discussed the importance of public education to a successful enforcement program for central air conditioner regional standards. The Working Group recommended DOE establish a Web page with information on regional standards for central air conditioners that could be referenced by manufacturers, distributors, contractors, and other interested parties. As recommended, DOE established a Web page about enforcement of regional standards which can be found at *http://www.energy.gov/gc/enforcement.*

The Working Group also opined on the need to deliver a consistent message to central air conditioner consumers and contractors about the regional standards. The Working Group recommended that DOE provide public educational materials that manufacturers and distributors could provide their customers. Accordingly, DOE is posting links from its Web page for regional standards to two different documents: (1) A printable trifold tailored to provide information to consumers and (2) and a printable flier to educate

[7] DOE defines ''person'' as ''any individual, corporation, company, association, firm, partnership, society, trust, joint venture or joint stock company, the government, and any agency of the United States or any State or political subdivision thereof.'' (10 CFR 430.2)

contractors and answer common questions.

Beyond creating a regional standards Web page, the Working Group recommended DOE conduct a public presentation (accessible via internet as well as in-person) on regional standards for central air conditioner standards and the enforcement of such standards to educate stakeholders and the public on these regulations. The Department will issue a Notice of Public Meeting announcing its presentation on regional standards after the issuance of a final rule and will post the slides from the presentation to this docket and on the regional standards Web page.

The Working Group also recommended that all information sources—the Web page, trifold, flier, and presentation—should include information, including email links, on how to report suspected violations of the regional standards for central air conditioners.

Finally, the Working Group recommended that central air conditioner manufacturers provide training about regional standards to distributors and contractors/dealers. Distributors and contractors also agreed to conduct their own training on regional standards. The Working Group did not establish specific guidelines for the training.

D. Reporting

The Working Group discussed methods for facilitating the reporting of suspected regional standards violations and recommended that the Department provide multiple pathways for the public to report such information. Specifically, the Working Group recommended that DOE accept complaints regarding central air conditioners regional standards from both an email address and call-in number. As requested, the Department will accept reports of suspected violations of the regional central air conditioner standards that are received via the email address: *EnergyEfficiencyEnforcement@hq.doe.gov* or phone number: 202–287–6997. DOE committed to look into all credible complaints, meaning DOE will follow up on all complaints that provide a reasonable amount of information to the Department. The Working Group emphasized, and DOE affirmed, that the complainant will have confidentiality to the maximum extent authorized by law.

E. Proactive Investigation

In addition to responding to reports of noncompliance with the regional standards, the Working Group recommended that the Department consider conducting proactive investigations. Specifically, the Working Group recommended that, if funding is available, DOE consider conducting a survey of homes in any region of the United States to determine if a central air conditioner not in compliance with the regional standards has been installed. DOE, as a member of the Working Group, agreed to consider proactive investigations if funding for such investigations is available.

F. Record Retention and Requests

To ensure that the Department is able to obtain sufficient information to establish a noncompliant installation and the relevant parties, the Working Group recommended that manufacturers, dealers, and contractors retain records detailing specific information about central air conditioner sales and installations. The Working Group recommended the following records retention scheme.

Beginning 30 days after the issuance of a final rule, a manufacturer must retain:

- For split-system central air conditioner condensing units: the model number, serial number, date of manufacture, date of sale, and party to whom the unit was sold (including person's name, full address, and phone number);
- For split-system central air conditioner indoor coils or air handlers (not including uncased coils sold as replacement parts): the model number, date of manufacture, date of sale, and party to whom the unit was sold (including person's name, full address, and phone number); and
- For single-package central air conditioners: the model number, serial number, date of manufacture, date of sale, and party to whom the unit was sold (including person's name, full address, and phone number).

Beginning November 30, 2015, a distributor must retain:

- For split-system central air conditioner condensing units: the manufacturer, model number, serial number, date the unit was purchased from the manufacturer, party from whom the unit was purchased (including person's name, full address, and phone number), date unit was sold to a dealer or contractor, party to whom the unit was sold (including person's name, full address, and phone number), and, if delivered to the purchaser, the delivery address; and
- For single-package central air conditioners: the manufacturer, model number, serial number, date the unit was purchased from the manufacturer, party from whom the unit was purchased (including person's name, full address, and phone number), date unit was sold to dealer or contractor, party to whom the unit was sold (including person's name, full address, and phone number), and, if delivered to the purchaser, the delivery address.

For all installations in the Southeast and Southwest, beginning 30 days after issuance of a final rule in this rulemaking, contractors must retain:

- For split-system central air conditioner condensing units: the manufacturer name, model number, serial number, location of installation (including street address, city, state, and zip code), date of installation, and party from whom the unit was purchased (including person's name, full address, and phone number);
- For split-system central air conditioner indoor coils or air handlers (not including uncased coils sold as replacement parts): the manufacturer name, model number, location of installation (including street address, city, state, and zip code), date of installation, and party from whom the unit was purchased (including person's name, full address, and phone number); and
- For single-package central air conditioners: the manufacturer name, model number, serial number, location of installation (including street address, city, state, and zip code), date of installation, and party from whom the unit was purchased (including person's name, full address, and phone number).

See 2013–BT–NOC–0005, No. 30 at 14–16.

The Working Group recommended that contractors retain records for 48 months after the date of installation, distributors retain records for 54 months after the date of sale, and manufacturers retain records for 60 months after the date of sale. The Working Group explicitly noted that retaining records allows each entity to archive records as long as they are not deleted or disposed of. The Working Group also clarified that the records retention requirements neither mandate that contractors, distributors, or manufacturers create new forms for the purpose of tracking central air conditioners nor require records to be electronic. See 2013–BT–NOC–0005, No. 30 at 17–18. DOE proposes to adopt these record retention requirements as with a few minor modifications and requests comment on these requirements.

DOE proposes two modifications to the recommendations of the Working Group. First, due to the delay issuing this notice of proposed rulemaking, DOE proposes that distributors be

required to retain records as of July 1, 2016. Second, after extensive discussion, the working group recommended that DOE refer to ''indoor coils or air handlers'' with respect to the record retention requirements for split-system air conditioners. DOE proposes, instead, to use the term ''indoor unit'' to reflect the term proposed in DOE's recent CAC TP SNOPR. *See* 80 FR 69278 at 69284. At the time of the negotiation, DOE had no regulatory term that embodied the concept the Working Group sought to describe. If ''indoor unit'' is adopted in the test procedure final rule, then its use in the context of this rulemaking would conform to the concept the Working Group described while ensuring consistency within the DOE regulations.

Although not discussed by the Working Group, DOE recognizes that some internet sellers may perform the role of contractor or distributor, depending on who is purchasing the product. DOE proposes that those entities will have to keep records consistent with the requirements of the transaction, for the length of time required for that transaction.

To limit the potential of burden associated with producing records at the request of the Department, the Working Group recommended that DOE must have a reasonable belief a violation occurred before requesting records. DOE will determine if it has reasonable belief by assessing a variety of factors, such as:

- Whether it has an address of a suspected noncompliant installation or attempted installation;
- Whether it has identifying information for an installed unit;
- Whether it has physical evidence (*e.g.,* a picture of a noncompliant condensing unit and its nameplate, copy of EnergyGuide label, copy of completed work order or invoice, bill of sale for equipment, copy of bid for installation, distributor prepared price book);
- Whether there have been repeat complaints about the party; or
- Whether the complainant has a history of filing complaints of violations that have been substantiated by the Department through investigation.

Once DOE determines it has a reasonable belief, then it may request records from relevant manufacturers, distributors, and contractors. Records must be produced within 30 days of a request by the Department. However, DOE may, at its discretion, grant additional time for production of records if the affected entity makes a good faith effort to produce records within 30 days. To receive this extra time, the entity, after working to gather the records within the 30 days, must provide DOE all the records gathered and a written explanation for the need for additional time including the requested date for completing the records request.

DOE proposes to adopt the Working Group's recommendations for records requests. The Department requests comment on the threshold for records requests and the proposed timeframe for responding to such requests.

G. Violations and Routine Violations

As mentioned above, it is unlawful for any manufacturer to knowingly sell to a distributor, contractor, or dealer with knowledge that the entity routinely violates any regional standard applicable to the product. (42 U.S.C. 6302(a)(6), 10 CFR 430.102(a)(10)) To clarify this prohibited act, the Working Group discussed what activities would constitute a violation by a distributor, contractor or dealer. For a distributor, the Working Group agreed that it would be a violation to knowingly sell a product to a contractor or dealer with knowledge that the entity will sell and/or install the product in violation of any regional standard applicable to the product. Additionally, it would be a violation for a distributor to knowingly sell a product to a contractor or dealer with knowledge that the entity routinely violates any regional standard applicable to the product. For contractors, the Working Group agreed it would be a violation to knowingly sell to and/or install for an end user a central air conditioner subject to regional standards with knowledge that such product would be installed in violation of any regional standard applicable to the product.

To further clarify what constituted an installation of a central air conditioner in violation of an applicable regional standard, the Working Group agreed that:

(1) A person cannot install a complete central air conditioner system—meaning the condensing unit and evaporator coil and/or blower—unless it has been certified as a complete system that meets the applicable standard. A previously discontinued combination may be installed as long as the combination was previously validly certified to the Department as compliant with the applicable regional standard and the combination was not discontinued because it was found to be noncompliant with the applicable standard(s);

(2) a person cannot install a replacement condensing unit unless it is certified as part of a combination that meets the applicable standard; and

(3) a person cannot install a condensing unit that has a certified combination with a rating that is less than the applicable regional standard.

To determine if a violation occurred, the Department will conduct an investigation into the alleged misconduct. In a typical investigation, DOE may discuss the installation in question with the end user or the homeowner and other relevant parties, including the alleged violator. DOE may also request records from the dealer, contractor, distributor, and/or manufacturer if the Department has reasonable belief a violation occurred.

The Working Group recommended that if no violation is found, the Department should issue a case closed letter to the party being investigated. If DOE finds that a contractor or dealer completed a noncompliant installation in one residence or an equivalent setting (*e.g.,* one store), but the violator remediated that violation by installing a compliant unit before DOE concluded its investigation, then DOE will issue a case closed letter to the party being investigated, as long as that person has no history of prior violations. The purpose of this practice would be to incentivize parties who, on one occasion, mistakenly install one noncompliant unit to replace the product and thereby not suffer any public stigma. However, if the non-compliant installation is not remediated and a violation is found, DOE will issue a public ''Notice of Violation.'' The party found to be in violation can remediate the single violation and it will not count towards the finding of ''routine violator'' unless the party is found, in the course of a subsequent investigation, to have committed another violation. For more on remediation of a single violation, see section II.H.

In determining whether a party ''routinely violates'' a regional standard, the Working Group recommended that DOE consider the following factors:

- Number of violations (in both current and past investigations);
- Length of time over which the violations were committed;
- Ratio of compliant to noncompliant installations or sales;
- Percentage of employees committing violations;
- Evidence of effort or intent to commit violations;
- Evidence of training or education provided on regional standards; and
- Subsequent remedial actions.

The Working Group also agreed that DOE should consider whether the routine violation was limited to a specific contractor or distribution

location. DOE would rely on the same factors considered in determining whether a routine violation occurred.

The Working Group recommended that DOE issue a ''Notice of Finding of Routine Violator'' if the Department determines that a violator routinely violated a regional standard. This notice would identify the party found to be a routine violator and explain the scope of the violation. Additionally, if DOE, in its discretion, finds that the routine violation was limited to a specific location, DOE may in the Notice of Finding of Routine Violation state that the prohibition on manufacturer sales is limited to a particular contractor or distribution location This notice would be both posted to the Department's enforcement Web site and would be emailed to those signed up for email updates.[8]

If DOE makes a finding of routine violation, the violator has the right to file an administrative appeal of the finding. Any appeal of a Notice of Finding of Routine Violation would be required to be filed within 30 days of the issuance of the notice. The appeal would be reviewed by DOE's Office of Hearings and Appeals. The appeal must present information rebutting the finding of routine violation. The appeal will be decided within 45 days of filing of the appeal. The violator may also file a Notice of Intent to Appeal with the DOE Office of Hearings and Appeals. If this notice of intent is filed within three business days of the Notice of Finding of Routine Violation, then manufacturers may continue to sell products to the routine violator during the pendency of the appeal. See section II.J for more details on sales during the pendency of an appeal.

DOE proposes to adopt the Working Group's recommendations pertaining to violations and routine violations and requests comment on these proposals.

H. Remediation

As previously mentioned, the Working Group recommended that violators may be given the opportunity to remediate. The sole method of remediation would be the replacement of noncompliant unit with compliant units. If a violator is unable to replace all noncompliant units, then the Department may, in its discretion, consider the remediation complete if the violator satisfactorily demonstrates to the Department that it attempted to replace all noncompliant units. In practice, the violator would have to show that they replaced almost all of the noncompliant units and document significant, yet refused, efforts to complete the replacement of the remaining noncompliant units. The Department would also scrutinize those ''failed'' attempts at replacement to ensure that there was indeed a good faith effort to complete remediation of the noncompliant unit.

The replacement of noncompliant units with compliant units would be at the cost of the violator. The violator would not be allowed to use warranty or other replacement claims to recoup the cost of the replacement from the manufacturer. To ensure that warranties or other replacement claims are not used, the violator must provide DOE with the serial numbers for the new and old units. The Department will then provide these numbers to the manufacturer(s) and distributor(s) to verify that warranties and other replacement claims were not wrongfully used. If the violator successfully remediates, then DOE will issue a public ''Notice of Remediation.''

The Working Group recommended that routine violators should also be entitled to remediation. As manufacturers are prohibited from selling to routine violators, remediation would be coordinated through the Department. If the routine violator wants to remediate then it must contact the DOE Office of the General Counsel, Office of Enforcement, via the DOE point of contact listed in the Notice of Finding of Routine Violation. The routine violator must inform DOE of the distributor or manufacturer from whom it wishes to purchase compliant replacement units. Within three business days of the routine violator's request to remediate, the Department will contact the necessary distributor(s) or manufacturer(s) and authorize sale for purposes of remediation. DOE will also provide the manufacturer(s) or distributor(s) with an official letter authorizing the sale for purposes of remediation for the seller's records. The routine violator must provide documentation of the installation of the compliant units to DOE once the remediation is completed. DOE will also follow up with the routine violator within 30 days of the date of the official letter authorizing the sale for purposes of remediation to determine the status of the remediation. If a routine violator successfully remediates, then DOE will issue a Notice indicating the entity is no longer a routine violator no more than 30 days after DOE received documentation demonstrating the remediation is completed.

DOE proposes to adopt the Working Group's recommendation on remediation and requests comment on this proposal.

I. Labeling

The Working Group recommended, with DOE abstaining, that the FTC initiate a rulemaking to adopt a simplified label for equipment rated below the regional standards and a separate simplified label for equipment rated at or above the regional standards. The Working Group found that the simplified labels, as drafted by AHRI (a manufacturer trade association), provide better alignment with the Working Group's proposed regional enforcement plan. The simplified labels are posted in the docket for this rulemaking. *See* Example Voluntary Marking, No. 91, for sample label provided by a manufacturer during the negotiation.

The Working Group also recommended, and manufacturers agreed, to add a label to the central air conditioner condensing unit to indicate where the unit can legally be installed. The label would be near to, or part of, the nameplate and ruggedized to withstand elements. For units that do not meet the EER standards applicable to the Southwest region, the label would state, ''Install Prohibited in Southwest.'' For units that cannot be sold in the Southeast or Southwest because their SEER value is below the minimum required in those regions, the label would state, ''Install Prohibited in Southwest and Southeast.'' As a result, a contractor should never install for an end user in a region a unit that bears the label indicating that installation is prohibited in that region. The manufacturers agreed they would start using the label scheme by March 1, 2015. Additionally, AHRI stated it would require all manufacturers participating in the AHRI certification program to apply these labels to split-system and single package central air conditioners with rated combinations below the minimum standard(s) required in each region as of March 1, 2015.

J. Manufacturer Liability

In accordance with the Department's regulations on prohibited acts, manufacturers may be fined for ''knowingly sell[ing] a product to a distributor, contractor, or dealer with knowledge that the entity routinely violates any regional standard applicable to the product.'' (42 U.S.C. 6302, 10 CFR 429.102(a)(10)) The Working Group had significant discussions on the scope of the term ''product'' as it relates to this prohibited act. The Department explained that it interprets the term ''product'' to include

[8] DOE's enforcement Web site is: *http://energy.gov/gc/enforcement.*

all classes of central air conditioners and heat pumps found within 10 CFR 430.32(c). Ultimately, the Working Group could not come to consensus on whether the scope of any prohibition on sales could be limited to split-system air conditioners and single-package air conditioners instead of the Department's interpretation.[9]

EPCA defines a ''central air conditioner'' as a ''product . . . which . . . is a heat pump or a cooling only unit'' and refers to all central air conditioners as one ''product.'' (42 U.S.C. 6291(21)) Therefore, to be consistent with EPCA, DOE interprets the term ''product'' to be inclusive of all central air conditioner and heat pump product classes listed in 10 CFR 430.32(c), meaning that manufacturers may be subject to civil penalties for sales to a routine violator of any unit within the central air conditioning product classes.

If a manufacturer sells a central air conditioner (including heat pumps) to a routine violator after a Notice of Finding of Routine Violation has been issued, then the manufacturer would be liable for civil penalties. The maximum fine a manufacturer is subject to is $200 per unit sold to a routine violator.[10] (10 CFR 429.120)

The Working Group recommended that DOE provide manufacturers with 3 business days from the issuance of a Notice of Finding of Routine Violation to stop all sales of central air conditioners and heat pumps to the routine violator. During this time, manufacturers would not be liable for sales to a routine violator. DOE noted that, consistent with its penalty guidance,[11] it would consider the manufacturer's efforts to stop any sales in determining whether (or to what extent) to assess any civil penalties for sales to a routine violator after that three day window.

If the routine violator is appealing the finding, the Working Group recommended that manufacturers be allowed to continue to sell central air conditioners and heat pumps to the routine violator during the pendency of the appeal. In order to provide parties notice that a routine violator is appealing the determination, the routine violator must file a Notice of Intent to Appeal with the Office of Hearings and Appeals within three business days after the issuance of the Notice of Finding of Routine Violator. If the finding is ultimately upheld, then the manufacturers could face civil penalties for sale of any products rated below the regional standards to the routine violator.

The Working Group also recommended that DOE provide an incentive for manufacturers to report routine violators. The Working Group recommended that if a manufacturer has knowledge of a routine violator, then the manufacturer can be held liable for all sales made after the date such knowledge is obtained by the manufacturer. However, if the manufacturer reports such knowledge to DOE within 15 days of receipt of the knowledge, then the Department will not hold the manufacturer liable for sales to the suspected routine violator made prior to notifying DOE.

On a separate note, nothing in this rulemaking impacts DOE's ability to determine that a manufacturer has manufactured and distributed a noncompliant central air conditioner in accordance with the existing procedures at 10 CFR 429.104–429.114. Furthermore, those processes apply to DOE's determination of a manufacturer's manufacture and distribution of a central air conditioner that fails to meet a regional standard. With respect to liability, if DOE determines that a model of condensing unit fails to meet the applicable regional standard(s) when tested in a combination certified by the same manufacturer (*i.e.,* one entity manufactures both the indoor coil and the condensing unit), the condensing unit manufacturer will be responsible for this model's noncompliance. If DOE determines that a basic model fails to meet regional standards when tested in a combination certified by a manufacturer other than the outdoor unit manufacturer (*e.g.,* an independent coil manufacturer (ICM)), the certifying manufacturer will be responsible for this combination's noncompliance. The responsible manufacturer will be liable for distribution in commerce of noncompliant units. The responsible manufacturer can minimize liability by demonstrating on a unit-by-unit basis that the noncompliant combination was installed in a region where it would meet the standards. For example, if a 14 SEER split-system air conditioner was tested by the Department and determined to be 13.5 SEER, then the manufacturer may minimize its liability by proving only a portion of sales for this combination was installed in the Southeast and Southwest. Manufacturers represented during the course of the negotiations that the bulk of sales are of minimally compliant units and so they expect most of the products that comply with the Southeast and Southwest regional standards would be sold in those regions. Given this, DOE will presume all units of a model rated as compliant with a regional standard but determined to be noncompliant with that standard were in fact installed illegally. Manufacturers can rebut this presumption by providing evidence that a portion of the units were instead installed in a location where they would have met the applicable energy conservation standards.

DOE proposes to adopt these clarifications of manufacturer liability as recommended by the Working Group and requests comment on this proposal.

K. Additional Prohibited Acts for Distributors, Contractors and Dealers

The Working Group had significant discussions on whether to include additional prohibited acts and ultimately could not come to consensus on whether to include additional prohibited acts.[12]

L. Summary Table

The Working Group developed a summary table for inclusion in this document. This summary table helps explain the responsibilities for the various parties impacted by this rulemaking and does not include any proposed requirements not previously described in today's NOPR. DOE has further added columns depicting the roles and responsibilities of those making sales through the internet to this chart.

[9] For more details regarding this discussion, see the public meeting transcript for October 24, 2014, No. 88.

[10] As discussed in section II.B, a manufacturer-owned distributor is considered to be a manufacturer and thus is liable for all noncompliant sales.

[11] The DOE civil penalty guidance is available at *http://energy.gov/gc/enforcement* under ''Enforcement Guidance.''

[12] For details on the discussions regarding additional prohibited acts see the public meeting transcript for October 16, 2014. No. 87 pp. 3–87.

TABLE II–2—CENTRAL AIR CONDITIONER REGIONAL ENFORCEMENT SUMMARY TABLE

	Manufacturer	Importer	Manufacturer owned distributor	Independent distributor	Contractors or dealer	Internet sellers to contractors or dealers	Internet sellers to end users
Subject to civil penalties based upon committing a prohibited act.	Yes	Yes	Yes	No	No	No	No.
Can be labeled a routine violator.	No	No	No	Yes	Yes	Yes	Yes.
Considered a manufacturer under definition.	Yes	Yes	Yes	No	No	No	No.
Can remediate to get off routine violator list.	N/A	N/A	N/A	Yes	Yes	Yes	Yes.
Right to appeal finding of Routine Violation.	N/A	N/A	N/A	Yes	Yes	Yes	Yes.
Record retention	60 months	60 months	60 months	54 months	48 months	54 months	48 months.
Record retention start date.	30 days after Final Rule.	30 days after Final Rule.	30 days after Final Rule.	Nov. 30, 2015 (DOE proposes July 1, 2016).	30 days after Final Rule.	Nov. 30, 2015 (DOE proposes July 1, 2016).	30 days after Final Rule.

M. Impact of Regional Enforcement Proposal on National Impacts Analysis

In the June 2011 DFR, DOE considered the economic impacts of amending the standards for central air conditioners and heat pumps. Included in the economic analyses was National Impacts Analysis (NIA) which estimated the energy savings and the net present value (NPV) of those energy savings that consumers would receive from the new energy efficiency standards of central air conditioners (CAC) and heat pumps (HP). This NPV was the estimated total value of future operating-cost savings during the analysis period (2015–2045), minus the estimated increased product costs (including installation), discounted to 2011. However, DOE did not account for the financial burden on distributors and installers related to record retention requirements necessary to demonstrate compliance with the regional standards in the June 2011 DFR.

From the enforcement plan proposed in this rulemaking, DOE estimated that manufacturers, distributors, and contractors face some financial burden primarily related to the proposed record retention requirements. DOE assumed that the proposed records retention requirements would cause manufacturers, distributors, and contractors additional labor costs from collecting and filing such records. These labor costs would be an annual burden to the market participants. At the Working Group public meetings, distributors stated that the proposed records retention requirements would cause distributors to update their enterprise resource planning (ERP) systems to track the necessary information. DOE considered this update to the EPR systems an initial conversion cost. The cost of retaining records on each market participant is summarized in Table II–3.

TABLE II–3—COST OF PROPOSED RECORDS RETENTION DUE TO REGIONAL STANDARDS ENFORCEMENT FOR CENTRAL AIR CONDITIONER AND HEAT PUMP MARKET PARTICIPANTS

	Manufacturers	Distributors	Contractors
Estimated Total Annual Burden Hours	574,167	287,083	359,949
Estimated Total Annual Cost	$4,162,708	$2,081,354	$2,609,631
Estimated Initial Conversion Cost	.....	$46,340,000	.....

In this NOPR, DOE re-evaluated the NIA to include the cost of the proposed record retention requirements to manufacturer, distributors, and contractors. DOE conservatively estimated the consumer benefits by assuming that the annual cost from the proposed record retention requirements would be passed on to consumers and thus decreasing the NPV. However, DOE assumed that distributors would entirely bear the initial up-front cost of updating their ERP systems, causing no impact to the NPV for that portion of the impacts. The updated NPV results are summarized in Table II–4. The impact of including the proposed record retention requirement costs on the NPV is estimated to reduce the benefit by $0.30 billion at a 3% discount rate and $0.16 billion at a 7% discount rate. The costs of the record retention requirements are estimated to have no impact on national energy savings. Because the record retention requirement costs have only a small impact on NPV, ranging from a minimum of 2-percent at a discount rate of 3% and a maximum of 4-percent at a discount rate of 7%, and no impact on national energy savings, DOE's economic justification of the energy conservation standards chosen and

published in the 2011 DFR would be unaffected by the quantification and inclusion of enforcement plan costs. Consequently, DOE is reaffirming the 2011 DFR energy conservation standards based on this analysis.

TABLE II–4—NATIONAL IMPACTS ANALYSIS RESULTS WITH COSTS FROM PROPOSED REGIONAL ENFORCEMENT PLAN FOR CENTRAL AIR CONDITIONERS AND HEAT PUMPS

	National impacts estimated from 2011 DFR for the chosen energy conservation standards	National impacts estimated from 2011 DFR for the chosen energy conversation standards with enforcement plan costs
National Energy Savings (quads)	3.20 to 4.22	3.20 to 4.22.
NPV of Consumer Benefits at 3% discount rate (2009$ billion)	14.73 to 17.55	14.43 to 17.25.
NPV of Consumer Benefits at 7% discount rate (2009$ billion)	3.93 to 4.21	3.77 to 4.05.

DOE requests comment on its assumptions for the financial burden from the proposed record retention requirements and the resulting impact on NPV at the amended standard level.

III. Procedural Issues and Regulatory Review

A. Review Under Executive Order 12866

The Office of Management and Budget (OMB) has determined that today's regulatory action is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, ''Regulatory Planning and Review,'' 58 FR 51735 (Oct. 4, 1993). Accordingly, this action was not subject to review under the Executive Order by the Office of Information and Regulatory Affairs (OIRA) in the OMB.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis (IFRA) for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by Executive Order 13272, ''Proper Consideration of Small Entities in Agency Rulemaking,'' 67 FR 53461 (Aug. 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the DOE rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel's Web site: *http://energy.gov/gc/office-general-counsel.*

DOE reviewed the proposed requirements under the provisions of the Regulatory Flexibility Act and the procedures and policies published on February 19, 2003. As discussed in more detail below, DOE found that the entities impacted by the proposals in this NOPR (central air conditioning manufacturers, distributors, and contractors) could potentially experience a financial burden associated with these new requirements. Additionally, the majority of central air conditioning contractors and distributors are small business as defined by the Small Business Administration (SBA). DOE determined that it could not certify that the proposed rule, if promulgated, would not have a significant effect on a substantial number of small entities. Therefore, DOE has prepared an IRFA for this rulemaking. The IRFA describes potential impacts on small businesses associated with the proposed requirements.

DOE has transmitted a copy of this IRFA to the Chief Counsel for Advocacy of the Small Business Administration for review.

1. Description and Estimated Number of Small Entities Regulated

The SBA has set a size threshold for manufacturers, distributors, and contractors of central air conditioning products that define those entities classified as ''small businesses.'' DOE used SBA's size standards to determine whether any small businesses would be impacted by this NOPR. 65 FR 30836, 30849 (May 15, 2000), as amended at 65 FR 53533, 53545 (Sept. 5, 2000) and codified at 13 CFR part 121. The size standards are listed by North American Industry Classification System (NAICS) code and industry description, and are available at *http://www.sba.gov/sites/default/files/files/Size_Standards_Table.pdf.* The size standards and NAICS codes relevant to this rulemaking are listed in Table III–1.

To estimate the number of companies that could be small business manufacturers, distributors, and contractors of equipment covered by this rulemaking, DOE conducted a market survey using available public information. DOE's research involved examining industry trade association Web sites, public databases, and individual company Web sites. DOE also solicited information from industry representatives such as AHRI, HARDI, ACCA, and PHCC. DOE screened out companies that do not offer products covered by this rulemaking or are not impacted by this rulemaking, do not meet the definition of a ''small business,'' or are foreign owned and operated.

TABLE III–1—SMALL BUSINESS CLASSIFICATION SUMMARY TABLE

Impacted entity	NAICS Code	NAICS Definition of small business	Total number of impacted businesses	Total number of small businesses
Contractors [13]	238220	$15 million or less in revenue	[14] 22,207	21,763
Distributors	423730	100 or less employees	[15] 2,317	2,000
Manufacturers	333415	750 or less employees	29	12

2. Description and Estimate of Regional CAC Requirements

As discussed in the preamble of this proposed rule, the Working Group recommended an enforcement plan for central air conditioners that would include public awareness efforts, records retention requirements, and voluntary efforts like remediation and labeling. The Working Group also made explicit the terms ''violation'' and ''routine violator.'' While most of the proposals in this rulemaking will not have an impact on manufacturers, distributors, and contractors that adhere to the central air conditioner regional standards, the records retention requirements may result in some financial burden.

The Working Group worked to negotiate records retention requirements that would have limited financial burden on the impacted parties—manufacturers, distributors, and contractors. The Working Group made a few general provisions regarding the records retention requirements to help mitigate some of the financial burden. The Working Group tried to reduce the impact of the records retention requirements by staggering the length of time for which records must be maintained. Manufacturers, the entities understood to have the most resources and sophistication, would have to retain records for the longest time period (60 months); distributors would have to retain records for less time (54 months); and contractors would have to retain records for the least amount of time (48 months). Additionally, in the case that records are requested, the Working Group recommended that the party from whom the records were requested should have an extended period of 30 days to produce such records. The Working Group also explicitly recommended that manufacturers, distributors, and contractors should not have to create new forms to retain such records, and that the records would not have to be retained electronically.

DOE expects central air conditioning manufacturers to be the least burdened entity of all the affected entities by the record retention requirements proposed in this document. Manufacturers have the fewest record retention requirements. Many of the record retention requirements being proposed in this rulemaking expand on DOE's existing certification requirements and thus should only slightly increase the recordkeeping burden. DOE does not expect manufacturers to incur any capital expenditures as a result of the proposals since the rulemaking does not impose any product-specific requirements that would require changes to existing plants, facilities, product specifications, or test procedures. Rather, this proposed rule imposes record retention requirements, which may have a slight impact on labor costs. DOE included certification and enforcement requirements associated with the regional standards for central air conditioners in the June 27, 2011 energy conservation standards final rule for central air conditioners and heat pumps.[16]

Based on comments at the Working Group meetings, DOE expects the record retention requirements to cause distributors the most financial burden. Distributors track equipment and sales in ERP systems and are expected to incorporate the proposed recordkeeping requirements into their ERP systems. HARDI expected that 40% of distributors currently retain the proposed records and will not need to update their ERP systems. HARDI expected 50% of distributors would need to make some changes to their ERP systems and 10% of distributors would need to make major changes to their ERP system. HARDI expected that small distributors are more likely to require major changes to their ERP systems because typically small distributors have older and more inflexible systems. HARDI estimated that changes to ERP systems to accommodate the record retention proposals may cost $20,000 to $100,000 depending on the type of change needed to the system. According to HARDI, the entire central air conditioner distribution industry would incur an initial conversion cost of around $46,340,000 to modify the ERP systems. To help alleviate some of the financial burden, the Working Group recommended that DOE not require distributors to retain records for sales of central air conditioner indoor coils or air handlers, which were identified as difficult components to track for the distributors. Additionally, the Working Group recommended that distributors should not have to start retaining records until November 30, 2015, at the earliest, which DOE is proposing in this NOPR to delay until July 1, 2016. Finally, as previously stated, DOE is not proposing to require records to be retained in electronic form and is not mandating that distributors make changes in their ERP systems to retain the information proposed in this document.

DOE believes central air conditioning contractors will experience a minimal recordkeeping burden. DOE is proposing to limit the records retention requirements on contractors to installations in the Southeast and Southwest. For all central air conditioner installations in those regions, contractors would have to keep a record of installation location, date of installation, and purchaser. Contractors would have to keep records specific to the type of units (outdoor condensing unit, indoor coil or air handler, or single-package air conditioner) installed as well. A contractor trade association remarked at the public meetings that most contractors already retain such records and the record retention requirements would have limited financial impacts. (ACCA, Public Meeting Transcript, No. 77 at 12–13) DOE estimates that any additional expense caused by the records requirements proposed in this rulemaking would be related to the time required to file these records. DOE estimates that contractors may spend an additional 10 minutes per installation to comply with the proposed records retention requirements.

3. Duplication, Overlap, and Conflict With Other Rules and Regulations

DOE is not aware of any rules or regulations that duplicate, overlap, or conflict with the proposed rule being considered today.

4. Significant Alternatives to the Rule

DOE could mitigate the potential impacts on small manufacturers, distributors, or contractors by reducing or eliminating the proposed types of information to be maintained. However, these requirements were negotiated as an acceptable compromise among the participants in the Working Group. While there may be some financial burden, the Working Group unanimously agreed to the record retention requirements for manufacturers, distributors, and contractors. Furthermore, DOE believes that the record retention requirements are the least burdensome requirements possible to provide DOE sufficient

[13] The number of impacted contractors and small contractors is based on the number of contractors installing in the Southwest and Southeast regions.

[14] Chapter 18: Regional Standards Impacts on Market Participants. Technical Support Document: Energy Efficiency Program for Consumer Products: Residential Central Air Conditioners, Heat Pumps, and Furnaces. *http://www.regulations.gov/#!documentDetail;D=EERE-2011-BT-STD-0011-0012.*

[15] ''Statistics of U.S. Businesses: 2008: NAICS 423730—HVAC equip. merchant wholesalers United States.'' U.S. Census Bureau. *http://www.census.gov/epcd/susb/2008/us/us423730.htm.*

[16] Chapter 12: Manufacturer Impact Analysis. Technical Support Document: Energy Efficiency Program for Consumer Products: Residential Central Air Conditioners, Heat Pumps, and Furnaces. *http://www.regulations.gov/#!documentDetail;D=EERE-2011-BT-STD-0011-0012.*

information to determine whether manufacturers, distributors and contractors are complying with regulatory requirements. Thus, DOE rejected the alternative of reducing or eliminating the record retention requirements and is proposing these record retention requirements for the aforementioned parties. DOE continues to seek input from businesses that would be affected by this rulemaking and will consider comments received in the development of any final rule.

C. Review Under the Paperwork Reduction Act of 1995

1. Description of the Requirements

In this document, DOE proposed record retention requirements for central air conditioner manufacturers, distributors, and contractors. DOE is requesting approval for a new information collection associated with these requirements. These requirements were developed as part of a negotiated rulemaking effort for regional central air conditioner enforcement. These requirements are described in detail in section II.F.

2. *Information Collection Request Title:* Enforcement of Regional Standards.

3. *Type of Request:* New.

4. *Purpose:* Generally, DOE is proposing that manufacturers retain records of the model number and serial number for all split system and single-package air conditioners, when these units were manufactured, when these units were sold, and to whom the units were sold. DOE proposed that manufacturers would retain these records for 60 months. DOE proposed that distributors would retain the manufacturer, model number and serial number for all their split system outdoor condensing units and single-package units. In addition, distributors must keep track of when and from whom each of these types of units was purchased, and when and to whom each of these units was sold. Distributors would retain these records for 54 months. Contractors must retain records of all split system and single-package air conditioner installations in the Southeast and Southwest region. These records would be required to include what was installed (*e.g.* manufacturer and model number), date of sale, and the party to whom the unit was sold. Contractors would retain these records for 48 months.

This proposed rule primarily requires central air conditioner manufacturers, distributors, and contractors to retain records for CAC installations. If DOE has a ''reasonable belief'' that an installation in violation of regional standards occurred, then it may request records specific to an ongoing investigation from the relevant manufacturer(s), distributor(s), and/or contractor(s). The Working Group recommended that DOE determine if it has a ''reasonable belief'' of a CAC violation based on the factors described in section II.F. Once DOE establishes reasonable belief and requests records from the relevant parties, then the entity from whom DOE requested records has 30 days to produce those records. The party from whom DOE requested records may ask for additional time with a written explanation of the circumstances.

The following are DOE estimates of the total annual recordkeeping burden imposed on manufacturers, distributors, and contractors of central air conditioners. These estimates take into account the time necessary collect, organized and store the record required by this notice of proposed rulemaking.

Manufacturers

Estimated Number of Impacted Manufacturers: 29.

Estimated Time per Record: 10 minutes.

Estimated Total Annual Burden Hours: 574,167 hours.

Estimated Total Annual Cost to the Manufacturers: $4,162,708.

Distributors

Estimated Number of Impacted Distributors: 2,317.

Estimated Time per Record: 5 minutes.

Estimated Total Annual Burden Hours: 287,083 hours.

Estimated Total Annual Cost to the Distributors: $2,081,354.

Contractors

Estimated Number of Impacted Contractors: 22,207.

Estimated Time per Record: 10 minutes per installation.

Estimated Total Annual Burden Hours: 359,949 hours.

Estimated Total Annual Cost to the Contractors: $2,609,631.

5. *Annual Estimated Number of Respondents:* 24,553.

6. *Annual Estimated Number of Total Responses:* 24,553.

7. *Annual Estimated Number of Burden Hours:* 1,221,199.

8. *Annual Estimated Reporting and Recordkeeping Cost Burden:* $8,853,693.

D. Review Under the National Environmental Policy Act of 1969

DOE has determined that this proposed rule falls into a class of actions that are categorically excluded from review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and DOE's implementing regulations at 10 CFR part 1021. Specifically, this proposed rule would adopt changes to the manner in which regional standards for central air conditioners are enforced, which would not affect the amount, quality or distribution of energy usage, and, therefore, would not result in any environmental impacts. Thus, this rulemaking is covered by Categorical Exclusion A6 under 10 CFR part 1021, subpart D. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

E. Review Under Executive Order 13132

Executive Order 13132, ''Federalism,'' 64 FR 43255 (August 4, 1999) imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have Federalism implications. The Executive Order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive Order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have Federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735. DOE has examined this proposed rule and has determined that it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of today's proposed rule. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6297(d)) No further action is required by Executive Order 13132.

F. Review Under Executive Order 12988

Regarding the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' 61 FR 4729 (Feb. 7, 1996), imposes on Federal agencies the general

duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; (3) provide a clear legal standard for affected conduct rather than a general standard; and (4) promote simplification and burden reduction. Section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in sections 3(a) and 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, the proposed rule meets the relevant standards of Executive Order 12988.

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a proposed regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a proposed ''significant intergovernmental mandate,'' and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect small governments. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820; also available at *http://energy.gov/gc/office-general-counsel.* DOE examined this proposed rule according to UMRA and its statement of policy and determined that the rule contains neither an intergovernmental mandate, nor a mandate that may result in the expenditure of $100 million or more in any year, so these requirements do not apply.

H. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This proposed rule would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Review Under Executive Order 12630

DOE has determined, under Executive Order 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights'' 53 FR 8859 (March 18, 1988), that this proposed rule would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

J. Review Under Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516 note) provides for agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE's guidelines were published at 67 FR 62446 (Oct. 7, 2002). DOE has reviewed this proposed rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,'' 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OMB, a Statement of Energy Effects for any proposed significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgated or is expected to lead to promulgation of a final rule, and that: (1) Is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (3) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

Today's proposal to adopt a regional standards enforcement plan for central air conditioners is not a significant regulatory action under Executive Order 12866. Moreover, it would not have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as a significant energy action by the Administrator of OIRA. Therefore, it is not a significant energy action, and, accordingly, DOE has not prepared a Statement of Energy Effects.

L. Review Under Section 32 of the Federal Energy Administration Act of 1974

Under section 301 of the Department of Energy Organization Act (Pub. L. 95–91; 42 U.S.C. 7101), DOE must comply with section 32 of the Federal Energy Administration Act of 1974, as amended by the Federal Energy Administration Authorization Act of 1977. (15 U.S.C. 788; FEAA) Section 32 essentially provides in relevant part that, where a proposed rule authorizes or requires use of commercial standards, the notice of proposed rulemaking must inform the public of the use and background of such standards. In addition, section 32(c) requires DOE to consult with the Attorney General and the Chairman of the Federal Trade Commission (FTC) concerning the impact of the commercial or industry standards on competition. Today's proposed rule does not requires use of any commercial standards.

IV. Public Participation

A. Submission of Comments

DOE will accept comments, data, and information regarding this proposed rule no later than the date provided in the **DATES** section at the beginning of this proposed rule. Interested parties may submit comments using any of the methods described in the **ADDRESSES** section at the beginning of this NOPR.

Submitting comments via regulations.gov. The 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 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 regulations.gov cannot be claimed as CBI. Comments received through the Web site 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 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 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 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).

B. Issues on Which DOE Seeks Comment

Although DOE welcomes comments on any aspect of this proposal, DOE is particularly interested in receiving comments and views of interested parties concerning the following issues:

1. DOE requests comments on the four clarifications to the regional standards discussed in section II.A.

2. DOE requests comments on its proposed definitions for contractor, dealer, and installation of a central air conditioner.

3. DOE requests comments on its proposed records retention requirements for manufacturers, distributors, and contractors. The Department is specifically interested in any financial burden imposed but these proposed requirements.

4. DOE requests comments on the threshold for records request and the proposed timeframe for responding to such requests.

5. DOE requests comments on the proposed violations for distributors, contractors, and dealers.

6. DOE requests comments on the factors used to determine if a violation is routine.

7. DOE requests comments on the proposed concept for remediation.

8. DOE requests comments on the proposed scheme for manufacturer liability.

V. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this proposed rule.

List of Subjects

10 CFR Part 429

Administrative practice and procedure, Confidential business information, Energy conservation, Reporting and recordkeeping requirements.

10 CFR Part 430

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Imports, Intergovernmental relations, Small businesses.

Issued in Washington, DC, on November 12, 2015.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

For the reasons stated in the preamble, DOE is proposing to amend parts 429 and 430 of Chapter II, subchapter D, of Title 10, Code of Federal Regulations as set forth below:

PART 429—CERTIFICATION, COMPLIANCE AND ENFORCEMENT FOR CONSUMER PRODUCTS AND COMMERCIAL AND INDUSTRIAL EQUIPMENT

■ 1. The authority citation for part 429 continues to read as follows:

Authority: 42 U.S.C. 6291–6317.

■ 2. Amend § 429.102 to add paragraph (c) to read as follows:

§ 429.102 Prohibited acts subjecting persons to enforcement action.

* * * * *

(c) Violations of regional standards:

(1) It is a violation for a distributor to knowingly sell a product to a contractor or dealer with knowledge that the entity will sell and/or install the product in violation of any regional standard applicable to the product.

(2) It is a violation for a distributor to knowingly sell a product to a contractor or dealer with knowledge that the entity routinely violates any regional standard applicable to the product.

(3) It is a violation for a contractor or dealer to knowingly sell to and/or install for an end user a central air conditioner subject to regional standards with the knowledge that such product will be installed in violation of any regional standard applicable to the product.

(4) A ''product installed in violation'' includes:

(i) A complete central air conditioning system that is not certified as a complete system that meets the applicable standard. Combinations that were previously validly certified may be installed after the manufacturer has discontinued the combination, provided the combination meets the currently applicable standard.

(ii) An outdoor unit with no match (*i.e.,* that is not offered for sale with an indoor unit) that is not certified as part of a combination that meets the applicable standard.

(iii) An outdoor unit that is part of a certified combination rated less than the standard applicable in the region in which it is installed.

■ 3. Add an undesignated center heading and § 429.140 in subpart C to read as follows:

Regional Standards Enforcement Procedures

§ 429.140 Regional standards enforcement procedures.

Sections 429.140 through 429.158 provide enforcement procedures specific to the violations enumerated in § 429.102(c). These provisions explain the responsibilities of manufacturers, private labelers, distributors, contractors and dealers with respect to central air conditioners subject to regional standards; however, these provisions do not limit the responsibilities of parties otherwise subject to 10 CFR parts 429 and 430.

■ 4. Add § 429.142 to subpart C to read as follows:

§ 429.142 Records retention.

(a) *Record retention.* The following records shall be maintained by the specified entities.

(1) *Contractors and dealers.*

(i) For installations of a central air conditioner in the states of Alabama, Arizona, Arkansas, California, Delaware, Florida, Georgia, Hawaii, Kentucky, Louisiana, Maryland, Mississippi, Nevada, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, or Virginia or in the District of Columbia, contractors and dealers must retain the following records for at least 48 months from the date of installation.

A. For split-system central air conditioner outdoor units: The manufacturer name, model number, serial number, location of installation (including street address, city, state, and zip code), date of installation, and party from whom the unit was purchased (including person's name, full address, and phone number); and

B. For split-system central air conditioner indoor units: The manufacturer name, model number, location of installation (including street address, city, state, and zip code), date of installation, and party from whom the unit was purchased (including person's name, full address, and phone number).

(ii) For installations of a central air conditioner in the states of Arizona, California, Nevada, and New Mexico, contractors and dealers must retain the following, additional records for at least 48 months from the date of installation.

A. For single-package central air conditioners: The manufacturer name, model number, serial number, location of installation (including street address, city, state, and zip code), date of installation, and party from whom the unit was purchased (including person's name, full address, and phone number).

B. [Reserved]

(2) *Distributors.* Beginning November 30, 2015, all distributors must retain the following records for no less than 54 months from the date of sale.

(i) *For split-system central air conditioner outdoor units:* The outdoor unit manufacturer, outdoor unit model number, outdoor unit serial number, date unit was purchased from manufacturer, party from whom the unit was purchased (including company or individual's name, full address, and phone number), date unit was sold to contractor or dealer, party to whom the unit was sold (including company or individual's name, full address, and phone number), and, if delivered, delivery address.

(ii) *For single-package air conditioners:* The manufacturer, model number, serial number, date unit was purchased from manufacturer, party from whom the unit was purchased (including company or individual's name, full address, and phone number), date unit was sold to a contractor or dealer, party to whom the unit was sold (including company or individual's name, full address, and phone number), and, if delivered, delivery address.

(3) *Manufacturers and Private Labelers.* All manufacturers and private labelers must retain the following records for no less than 60 months from the date of sale.

(i) *For split-system central air conditioner outdoor units:* The model number, serial number, date of manufacture, date of sale, and party to whom the unit was sold (including person's name, full address, and phone number);

(ii) *For split-system central air conditioner indoor units:* The model number, date of manufacture, date of sale, and party to whom the unit was sold (including person's name, full address, and phone number); and

(iii) *For single-package central air conditioners:* The model number, serial number, date of manufacture, date of sale, and party to whom the unit was sold (including person's name, full address, and phone number).

■ 5. Add § 429.144 to subpart C to read as follows:

§ 429.144 Records request.

(a) DOE must have reasonable belief a violation has occurred to request records specific to an on-going investigation of a violation of central air conditioner regional standards.

(b) Upon request, the manufacturer, private labeler, distributor, dealer, or contractor must provide to DOE the

relevant records within 30 calendar days of the request.

(1) DOE, at its discretion, may grant additional time for records production if the party from whom records have been requested has made a good faith effort to produce records.

(2) To request additional time, the party from whom records have been requested must produce all records gathered in 30 days and provide to DOE a written explanation of the need for additional time with the requested date for completing the production of records.

■ 6. Add § 429.146 to subpart C to read as follows:

§ 429.146 Notice of violation.

(a) If DOE determines a party has committed a violation of regional standards, DOE will issue a Notice of Violation advising that party of DOE's determination.

(b) If, however, DOE determines a noncompliant installation occurred in only one instance, the noncompliant installation is remediated prior to DOE issuing a Notice of Violation, and the party has no history of prior violations, DOE will not issue such notice.

(c) If DOE does not find a violation of regional standards, DOE will notify the party under investigation.

■ 7. Add § 429.148 to subpart C to read as follows:

§ 429.148 Routine violator.

(a) DOE will consider, *inter alia,* the following factors in determining if a person is a routine violator: Number of violations in current and past cases, length of time over which violations occurred, ratio of compliant to noncompliant installations or sales, percentage of employees committing violations, evidence of intent, evidence of training or education provided, and subsequent remedial actions.

(b) In the event that DOE determines a person to be a routine violator, DOE will issue a Notice of Finding of Routine Violation.

(c) In making a finding of Routine Violation, DOE will consider whether the Routine Violation was limited to a specific location. If DOE finds that the routine violation was so limited, DOE may, in its discretion, in the Notice of Finding of Routine Violation limit the prohibition on manufacturer and/or private labeler sales to a particular contractor or distribution location.

■ 8. Add § 429.150 to subpart C to read as follows:

§ 429.150 Appealing a finding of routine violation.

(a) Any person found to be a routine violator may, within 30 calendar days after the date of Notice of Finding of Routine Violation, request an administrative appeal to the Office of Hearings and Appeals.

(b) The appeal must present information rebutting the finding of violation(s).

(c) The Office of Hearings and Appeal will issue a decision on the appeal within 45 days of receipt of the appeal.

(d) A routine violator must file a Notice of Intent to Appeal with the Office of Hearings and Appeals within three business days of the date of the Notice of Finding of Routine Violation, serving a copy on the GC Office of Enforcement to retain the ability to buy central air conditioners during the pendency of the appeal.

■ 9. Add § 429.152 to subpart C to read as follows:

§ 429.152 Removal of finding of ''routine violator''.

(a) A routine violator may be removed from DOE's list of routine violators through completion of remediation in accordance with the requirements in § 429.154 of this subpart.

(b) A routine violator that wants to remediate must contact DOE Office of Enforcement via the point of contact listed in the Notice of Finding of Routine Violation and identify the distributor(s), manufacturer(s), or private labeler(s) from whom it wishes to buy compliant replacement product.

(c) DOE will contact the distributor(s), manufacturer(s), or private labeler(s) and authorize sale of central air conditioner units to the routine violator for purposes of remediation within 3 business days of receipt of the request for remediation. DOE will provide the manufacturer(s), distributor(s), and/or private labeler(s) with an official letter authorizing the sale of units for purposes of remediation.

(d) DOE will contact routine violators that requested units for remediation within 30 days of sending the official letter to the manufacturer(s), distributor(s), and/or private labeler(s) to determine the status of the remediation.

(e) If remediation is successfully completed, DOE will issue a Notice indicating a person is no longer considered to be a routine violator. The Notice will be issued no more than 30 days after DOE has received documentation demonstrating that remediation is complete.

■ 10. Add § 429.154 to subpart C to read as follows:

§ 429.154 Remediation.

(a) Any party found to be in violation of the regional standards may remediate by replacing the noncompliant unit at cost to the violator; the end user cannot be charged for any costs of remediation.

(1) If a violator is unable to replace all noncompliant installations, then the Department may, in its discretion, consider the remediation complete if the violator satisfactorily demonstrates to the Department that it attempted to replace all noncompliant installations.

(2) The Department will scrutinize any ''failed'' attempts at replacement to ensure that there was indeed a good faith effort to complete remediation of the noncompliant unit.

(b) The violator must provide to DOE the serial number of any outdoor unit and/or indoor unit installed not in compliance with the applicable regional standard as well as the serial number(s) of the replacement unit(s) to be checked by the Department against warranty and other replacement claims.

(c) If the remediation is approved by the Department, then DOE will issue a Notice of Remediation and the violation will not count towards a finding of ''routine violator''.

■ 11. Add § 429.156 to subpart C to read as follows:

§ 429.156 Manufacturer and private labeler liability.

(a) In accordance with § 429.102(c), manufacturers and private labelers are prohibited from selling central air conditioners and heat pumps to a routine violator.

(1) To avoid financial penalties, manufacturers and/or private labelers must cease sales to a routine violator within 3 business days from the date of issuance of a Notice of Finding of Routine Violation.

(2) If a Routine Violator files a Notice of Intent to Appeal pursuant to § 429.150, then a manufacturer and/or private labeler may assume the risk of selling central air conditioners to the Routine Violator during the pendency of the appeal.

(3) If the appeal of the Finding of Routine Violator is denied, then the manufacturer and/or private labeler may be fined in accordance with § 429.120, for sale of any units to a routine violator during the pendency of the appeal that do not meet the applicable regional standard.

(b) If a manufacturer and/or private labeler has knowledge of routine violation, then the manufacturer can be held liable for all sales that occurred after the date the manufacturer had knowledge of the routine violation. However, if the manufacturer and/or private labeler reports its suspicion of a routine violation to DOE within 15 days of receipt of such knowledge, then it

will not be liable for product sold to the suspected routine violator prior to reporting the routine violation to DOE.

■ 12. Add § 429.158 to subpart C to read as follows:

§ 429.158 Product determined noncompliant with regional standards.

(a) If DOE determines a model of outdoor unit fails to meet the applicable regional standard(s) when tested in a combination certified by the same manufacturer, then the outdoor unit basic model will be deemed noncompliant with the regional standard(s). In accordance with § 429.102(c), the outdoor unit manufacturer and/or private labeler is liable for distribution of noncompliant units in commerce.

(b) If DOE determines a combination fails to meet the applicable regional standard(s) when tested in a combination certified by a manufacturer other than the outdoor unit manufacturer (*e.g.,* ICM), then that combination is deemed noncompliant with the regional standard(s). In accordance with § 429.102(c), the certifying manufacturer is liable for distribution of noncompliant units in commerce.

(c) All such units manufactured and distributed in commerce are presumed to have been installed in a region where they would not comply with the applicable energy conservation standard; however, a manufacturer and/or private labeler may demonstrate through installer records that individual units were installed in a region where the unit is compliant with the applicable standards.

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

■ 13. The authority citation for part 430 continues to read as follows:

Authority: 42 U.S.C. 6291–6309; 28 U.S.C. 2461 note.

■ 14. Amend § 430.2 by adding, in alphabetical order, new definitions for ''contractor,'' ''dealer,'' ''distributor,'' and ''installation of a central air conditioner'' to read as follows:

§ 430.2 Definitions.

* * * * *

Contractor means a person (other than the manufacturer or distributor) who sells to and/or installs for an end user a central air conditioner subject to regional standards. The term ''end user'' means the entity that purchases or selects for purchase the central air conditioner. Some examples of typical ''end users'' are homeowners, building owners, building managers, and property developers.

* * * * *

Dealer means a type of contractor, generally with a relationship with one or more specific manufacturers.

* * * * *

Distributor means a person (other than a manufacturer or retailer) to whom a consumer appliance product is delivered or sold for purposes of distribution in commerce.

* * * * *

Installation of a central air conditioner means the connection of the refrigerant lines and/or electrical systems to make the central air conditioner operational.

* * * * *

■ 15. Amend § 430.32, by revising paragraph (c) to read as follows:

§ 430.32 Energy and water conservation standards and their compliance dates.

* * * * *

(c) *Central air conditioners and heat pumps.* The energy conservation standards defined in terms of the heating seasonal performance factor are based on Region IV, the minimum standardized design heating requirement, and the provisions of 10 CFR 429.16 of this chapter.

(1) Each basic model of single-package central air conditioners and central air conditioning heat pumps and each individual combination of split-system central air conditioners and central air conditioning heat pumps manufactured on or after January 1, 2015, shall have a Seasonal Energy Efficiency Ratio and Heating Seasonal Performance Factor not less than:

Product class	Seasonal energy efficiency ratio (SEER)	Heating seasonal performance factor (HSPF)
(i) Split-system air conditioners	13	.....
(ii) Split-system heat pumps	14	8.2
(iii) Single-package air conditioners	14	.....
(iv) Single-package heat pumps	14	8.0
(v) Small-duct, high-velocity systems	12	7.2
(vi)(A) Space-constrained products—air conditioners	12	.....
(vi)(B) Space-constrained products—heat pumps	12	7.4

(2) In addition to meeting the applicable requirements in paragraph (c)(1) of this section, products in product class (i) of that paragraph (*i.e.,* split-system air conditioners) that are installed on or after January 1, 2015, in the States of Alabama, Arkansas, Delaware, Florida, Georgia, Hawaii, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, or Virginia, or in the District of Columbia, shall have a Seasonal Energy Efficiency Ratio not less than 14. The least efficient combination of each basic model must comply with this standard.

(3) In addition to meeting the applicable requirements in paragraph (c)(1) of this section, split-system air conditioners that are installed on or after January 1, 2015, in the States of Alabama, Arkansas, Delaware, Florida, Georgia, Hawaii, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, or Virginia, or in the District of Columbia, must have a Seasonal Energy Efficiency Ratio of 14 or higher. Any outdoor unit model that has a certified combination with a rating below 14 SEER cannot be installed in these States. An outdoor unit model certified below 14 SEER by the outdoor unit manufacturer cannot be installed in this region even with an independent coil manufacturer's indoor unit that may have a certified rating at or above 14 SEER.

(4) In addition to meeting the applicable requirements in paragraph (c)(1) of this section, split-system air conditioners and single-package air conditioners that are installed on or after January 1, 2015, in the States of Arizona, California, Nevada, or New Mexico must have a Seasonal Energy Efficiency Ratio of 14 or higher and have an Energy Efficiency Ratio (at a

standard rating of 95 °F dry bulb outdoor temperature) not less than the following:

Product class	Energy efficiency ratio (EER)
(i) Split-system rated cooling capacity less than 45,000 Btu/hr	12.2
(ii) Split-system rated cooling capacity equal to or greater than 45,000 Btu/hr	11.7
(iii) Single-package systems	11.0

Any outdoor unit model that has a certified combination with a rating below 14 SEER or the applicable EER cannot be installed in this region. An outdoor unit model certified below 14 SEER or the applicable EER by the outdoor unit manufacturer cannot be installed in this region even with an independent coil manufacturer's indoor unit that may have a certified rating at or above 14 SEER and the applicable EER.

(5) Each basic model of single-package central air conditioners and central air conditioning heat pumps and each individual combination of split-system central air conditioners and central air conditioning heat pumps manufactured on or after January 1, 2015, shall have an average off mode electrical power consumption not more than the following:

Product class	Average off mode power consumption $P_{W,OFF}$ (watts)
(i) Split-system air conditioners	30
(ii) Split-system heat pumps	33
(iii) Single-package air conditioners	30
(iv) Single-package heat pumps	33
(v) Small-duct, high-velocity systems	30
(vi) Space-constrained air conditioners	30
(vii) Space-constrained heat pumps	33

* * * * *

[FR Doc. 2015–29435 Filed 11–18–15; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–5914; Directorate Identifier 2014–SW–056–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Helicopters (Formerly Eurocopter France) Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for Airbus Helicopters Model SA341G and SA342J helicopters. This proposed AD would require repetitive inspections of a certain part-numbered main rotor hub torsion bar (torsion bar). This proposed AD is prompted by several cases of corrosion in the metal strands of the torsion bar. The proposed actions are intended to detect corrosion and prevent failure of the torsion bar, loss of a main rotor blade, and subsequent loss of control of the helicopter.

DATES: We must receive comments on this proposed AD by January 19, 2016.

ADDRESSES: You may send comments by any of the following methods:

- *Federal eRulemaking Docket:* Go to *http://www.regulations.gov.* Follow the online instructions for sending your comments electronically.
- *Fax:* 202–493–2251.
- *Mail:* Send comments to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.
- *Hand Delivery:* Deliver to the ''Mail'' address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–5914; or in person at the Docket Operations Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the European Aviation Safety Agency (EASA) AD, the economic evaluation, any comments received, and other information. The street address for the Docket Operations Office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt. For service information identified in this proposed AD, contact Airbus Helicopters, 2701 N. Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *http://www.airbushelicopters.com/techpub.* You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy, Room 6N–321, Fort Worth, TX 76177.

FOR FURTHER INFORMATION CONTACT: Robert Grant, Aviation Safety Engineer, Safety Management Group, FAA, 10101 Hillwood Pkwy, Fort Worth, Texas 76177; telephone (817) 222–5110; email *robert.grant@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit only one time.

We will file in the docket all comments that we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. We may change this proposal in light of the comments we receive.

Discussion

EASA, which is the Technical Agent for the Member States of the European Union, issued EASA AD No. 2014–0216, dated September 24, 2014, to correct an unsafe condition for Airbus Helicopters Model SA341G and SA342J helicopters. EASA advises that several cases of cracks were found on the polyurethane (PU) coating of part-numbered 704A33633274 torsion bars installed on military Model SA341 helicopters. EASA states that these parts can also be