an accessible format (*e.g.,* braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

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(Catalog of Federal Domestic Assistance Number 84.283B, Comprehensive Centers Program)

Program Authority: 20 U.S.C. 9601–9608.

Dated: June 2, 2010.

Thelma Meléndez de Santa Ana,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 2010–13571 Filed 6–4–10; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

American Electric Power Service Corporation's Mountaineer Commercial Scale Carbon Capture and Storage Project: Mason County, WV; Notice of Intent To Prepare an Environmental Impact Statement and Potential Floodplain and Wetlands Involvement

AGENCY: Department of Energy.

ACTION: Notice of Intent and Notice of Potential Floodplain and Wetlands Involvement.

SUMMARY: The U.S. Department of Energy (DOE or the Department) announces its intent to prepare an Environmental Impact Statement (EIS) pursuant to the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*), the Council on Environmental Quality's (CEQ) NEPA regulations (40 CFR Parts 1500–1508), and DOE's NEPA implementing procedures (10 CFR Part 1021), to assess the potential environmental impacts of providing financial assistance for the construction and operation of a project proposed by American Electric Power Service Corporation (AEP). DOE selected this project for an award of financial assistance through a competitive process under the Clean Coal Power Initiative (CCPI) Program. AEP's Mountaineer Commercial Scale Carbon Capture and Storage Project (Mountaineer CCS II Project) would construct a commercial scale carbon dioxide (CO_2) capture and storage (CCS) system at AEP's existing Mountaineer Power Plant and other AEP owned properties located near New Haven, West Virginia.

For the Mountaineer CCS II Project, AEP would design, construct, and operate a CCS facility using Alstom's chilled ammonia process that would capture approximately 1.5 million metric tons annually of CO_2 from a 235-megawatt (MWe) flue gas slip stream taken from the 1,300 MWe Mountaineer Plant. The captured CO_2 would be treated, compressed, and transported by pipeline to proposed injection site(s) on AEP properties within an estimated 12 miles of the Mountaineer Plant where it would be injected into one or more geologic formations approximately 1.5 miles below ground. The project would remove up to 90 percent of the CO_2 from the 235–MWe slip stream and would demonstrate a commercial-scale deployment of the chilled ammonia process for CO_2 capture and sequestration of CO_2 in a saline formation. DOE selected this project for an award of financial assistance through a competitive process under Round 3 (second selection phase) of the CCPI Program.

The EIS will inform DOE's decision on whether to provide financial assistance to AEP for the Mountaineer CCS II Project. DOE proposes to provide AEP with up to $334 million of the overall project cost, which would constitute about 50 percent of the estimated total development cost, 50 percent of the capital cost of the project and 50 percent of the operational cost during the 3-year and 10-month demonstration period. The total project cost, including both DOE's and AEP's shares, is approximately $668 million (in 2010 dollars). The project would further a specific objective of Round 3 of the CCPI program by demonstrating advanced coal-based technologies that capture and sequester, or put to beneficial use, CO_2 emissions from coal-fired power plants.

The purposes of this Notice of Intent (NOI) are to: (1) Inform the public about DOE's proposed action and AEP's proposed project; (2) announce the public scoping meeting; (3) solicit comments for DOE's consideration regarding the scope and content of the EIS; (4) invite those agencies with jurisdiction by law or special expertise to be cooperating agencies in preparation of the EIS; and (5) provide notice that the proposed project may involve potential impacts to floodplains and wetlands.

DOE does not have regulatory jurisdiction over the Mountaineer CCS II Project, and its decisions are limited to whether and under what circumstances it would provide financial assistance to the project. As part of the EIS process, DOE will consult with interested Native American Tribes and Federal, state, regional and local agencies.

DATES: DOE invites comments on the proposed scope and content of the EIS from all interested parties. Comments must be received within 30 days after publication of this NOI in the **Federal Register** to ensure consideration. In addition to receiving comments in writing and by e-mail [*See* **ADDRESSES** below], DOE will conduct a public scoping meeting in which government agencies, private-sector organizations, and the general public are invited to present oral and written comments or suggestions with regard to DOE's proposed action, alternatives, and potential impacts of AEP's proposed project that DOE will consider in developing the EIS. The scoping meeting will be held at the New Haven Elementary School at 138 Mill Street in New Haven, West Virginia on Tuesday, June 22, 2010. Oral comments will be heard during the formal portion of the scoping meeting beginning at 7 p.m. [*See* Public Scoping Process]. The public is also invited to an informal session to learn more about the project and the proposed action at the same location beginning at 5 p.m. Various displays and other information about DOE's proposed action and AEP's Mountaineer CCS II Project will be available, and representatives from DOE and AEP will be present at the informal session to discuss the proposed project, the CCPI program, and the EIS process.

ADDRESSES: Written comments on the scope of the EIS and requests to participate in the public scoping meeting should be addressed to: Mr. Mark Lusk, U.S. Department of Energy, National Energy Technology Laboratory, 3610 Collins Ferry Road, P.O. Box 880, Morgantown, WV 26507–0880. Individuals and organizations who would like to provide oral or electronic comments should contact Mr. Lusk by postal mail at the above address; telephone (412–386–7435, or toll-free 1–877–812–1569); fax (304–285–4403); or electronic mail (*Mountaineer.EIS0445@netl.doe.gov).*

FOR FURTHER INFORMATION CONTACT: For further information about this project, contact Mr. Mark Lusk, as

described above. For general information on the DOE NEPA process, please contact Ms. Carol M. Borgstrom, Director, Office of NEPA Policy and Compliance (GC–54), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585; telephone (202–586–4600); fax (202–586–7031); or leave a toll-free message (1–800–472–2756).

SUPPLEMENTARY INFORMATION:

Background

Since the early 1970s, DOE and its predecessor agencies have pursued research and development programs that include large, technically complex, projects in pursuit of innovation in a wide variety of coal technologies through the proof-of-concept stage. However, helping a technology reach the proof-of-concept stage does not ensure its continued development or commercialization. Before a technology can be considered seriously for commercialization, it must be demonstrated at a sufficient scale to prove its reliability and economically competitive performance. The financial risk associated with such large-scale demonstration projects is often too high for the private sector to assume in the absence of strong incentives.

The CCPI program was established in 2002 as a government and private sector partnership to increase investment in clean coal technology. Through cooperative agreements with its private sector partners, the program advances clean coal technologies to commercialization. These technologies often involve combustion improvements, control system advances, improved gasifier designs, pollution reduction (including greenhouse gas reduction), efficiency improvements, fuel processing techniques, and other activities.

Congress established criteria for projects receiving financial assistance under this program in Title IV of the Energy Policy Act of 2005 (Pub. L. 109–58; EPAct 2005). Under this statute, CCPI projects must "advance efficiency, environmental performance and cost competitiveness well beyond the level of technologies that are in commercial service" (Pub. L. 109–58, Sec. 402(a)). On February 17, 2009, the American Recovery and Reinvestment Act of 2009 (Pub. L. 111–5, 123 Stat. 115) appropriated $3.4 billion to DOE for Fossil Energy Research and Development; the Department intends to use a significant portion of these funds to provide financial assistance to CCPI projects.

The CCPI program selects projects for its government-private sector partnerships through an open and competitive process. Potential private sector partners may include developers of technologies, utilities and other energy producers, service corporations, research and development firms, software developers, academia and others. DOE issues funding opportunity announcements that specify the types of projects it is seeking, and invites submission of applications. Applications are reviewed according to the criteria specified in the funding opportunity announcement; these criteria include technical, financial, environmental, and other considerations. DOE selects the projects that demonstrate the most promise when evaluated against these criteria, and enters into a cooperative agreement with the applicant. These agreements set out the project's objectives, the obligations of the parties, and other features of the partnership. Applicants must agree to provide at least 50 percent of their project's cost; for most CCPI projects, the applicant's cost share is much higher.

To date, the CCPI program has conducted three rounds of solicitations and project selections. Round 1 sought projects that would demonstrate advanced technologies for power generation and improvements in plant efficiency, economics, and environmental performance. Round 2 requested applications for projects that would demonstrate improved mercury controls and gasification technology. Round 3, which DOE conducted in two phases, sought projects that would demonstrate advanced coal-based electricity generating technologies which capture and sequester (or put to beneficial use) CO_2 emissions. DOE's overarching goal for Round 3 projects was to demonstrate technologies at commercial scale in a commercial setting that would: (1) Operate at 90 percent capture efficiency for CO_2; (2) make progress towards capture and sequestration at less than a 10 percent increase in the cost of electricity for gasification systems and a less than 35 percent increase for combustion and oxy-combustion systems; and (3) make progress towards capture and sequestration of 50 percent of the facility's CO_2 output at a scale sufficient to evaluate full impacts of carbon capture technology on a generating plant's operations, economics, and performance. The Mountaineer Commercial Scale CCS II Project was one of three selected in the second phase of Round 3. DOE entered into a cooperative agreement with AEP on February 1, 2010.

Purpose and Need for DOE Action

The purpose and need for DOE action—providing limited financial assistance to AEP's project—is to advance the CCPI program by funding projects with the best chance of achieving the program's objectives as established by Congress: Commercialization of clean coal technologies that advance efficiency, environmental performance, and cost competitiveness well beyond the level of technologies currently in commercial service.

The Mountaineer CCS II Project

AEP proposes to design, construct, and operate a CCS facility using Alstom's chilled ammonia process to capture approximately 1.5 million metric tons annually of CO_2 from a 235–MWe flue gas slip stream from the Mountaineer Plant. The captured CO_2 would be treated, compressed, and transported by pipeline to proposed injection site(s) on AEP properties within an estimated 12 miles of the Mountaineer Plant where it would be injected into one or more geologic formations approximately 1.5 miles below the earth's surface. These formations potentially include the Rose Run Formation, which is composed primarily of sandstone, and the Copper Ridge Formation, which is composed primarily of dolomite.

Proposed Carbon Capture Facility Site: AEP Mountaineer Power Plant

The proposed carbon capture facility would be located at the existing 1,300 MWe AEP Mountaineer Plant and other AEP owned property near the town of New Haven in Mason County, West Virginia. The Mountaineer Plant uses an average of approximately 10,000 tons of coal per day with coal being delivered to the facility by barge on the Ohio River, rail, and conveyors from a nearby coal mine west of the site. The Mountaineer Plant began commercial operation in 1980 and consists of a nominally rated 1,300 MWe pulverized coal-fired electric generating unit, a hyperbolic cooling tower, material delivery and unloading facilities, and various ancillary facilities required to support plant operation. The plant is equipped with air pollution control equipment including an electrostatic precipitator (ESP) for particulate control, selective catalytic reduction (SCR) for nitrogen oxides (NO_X) control, and a wet flue gas desulfurization unit for sulfur dioxide (SO_2) control. The plant includes a small chilled ammonia

process validation facility constructed in 2009 which currently captures CO_2 from a 20 MWe flue gas slip stream, and injects the captured CO_2 into the Rose Run Formation and the Copper Ridge Formation beneath the site. Two CO_2 injection wells and three monitoring wells are located on the Mountaineer Plant property to support the injection and monitoring of the injected CO_2. The property is bounded to the west by U.S. Route 62, to the east by the Ohio River, to the south by AEP's Phillip Sporn Power Plant, and one mile to the northwest (downriver) by the town of New Haven, West Virginia. A coal mine is located to the west of U.S. Route 62.

Proposed Chilled Ammonia Process Carbon Capture Facility

AEP would construct and operate a chilled ammonia process CO_2 capture system that would be located on AEP's property within the boundaries of the existing power plant. The process would use chilled ammonia to capture CO_2 and isolate it in a highly concentrated, high-pressure form suitable for sequestration. The concentrated CO_2 stream would be cooled and compressed to a supercritical state for transport via a network of pipelines to the injection sites. The process would be expected to remove approximately 90 percent of the CO_2 in the treated flue gas. The system would occupy an area of approximately 500 feet by 1,000 feet, and would process a slip-stream of flue gas after it exits the plant's flue gas desulfurization system. AEP is currently evaluating the optimum location at the plant for the proposed capture facility. Existing infrastructure (roadways, utilities) would be used; however, upgrades or construction of additional infrastructure may be required. Major equipment includes absorbers, regenerators, pumps, heat exchangers, and refrigeration equipment. In addition, maintenance facilities, water-handling equipment and laboratories would be required.

CO_2 Compression and Transport

Captured CO_2 would be compressed at the Mountaineer facility to approximately 2,000 pounds per square inch pressure and transported via pipelines to injection sites expected to be within 12 miles of the Mountaineer Plant. AEP is currently evaluating potential pipeline routes, which will depend on selection of CO_2 injection sites. However, AEP would use existing rights-of-way to the greatest extent practical. Potential pipeline routes will be considered as part of the NEPA process.

CO_2 Injection and Monitoring

Captured CO_2 would be injected into one or more geologic formations approximately 1.5 miles below the earth's surface. These formations include the Rose Run Formation, which is composed primarily of sandstone, and the Copper Ridge Formation, which is composed primarily of dolomite. The properties of these formations are known to be generally amenable to sequestration and the formations are overlaid by cap rock that would provide a seal to prevent upward migration of the CO_2. AEP is considering several of its properties in Mason County, West Virginia, for installation of CO_2 injection and monitoring wells. However, specific injection sites have not been determined as site characterization work is needed to confirm the geologic suitability of specific locations. AEP is in the process of planning characterization work at these properties that would include the drilling of at least one deep test well to evaluate subsurface geology. Information collected during these characterization efforts will be used by DOE in the EIS and by AEP to determine injection locations. Potential injection well sites will be considered as part of the NEPA process.

A monitoring, verification, and accounting (MVA) program would be implemented to monitor the injection and migration of CO_2 within the geologic formations and verify that it stays within the target formations. The MVA program must meet regulatory and CCPI Program requirements and may consist of the following components: (1) Injection system monitoring; (2) containment monitoring (via monitoring wells, mechanical integrity testing, and other means); (3) CO_2 plume tracking via multiple techniques; (4) CO_2 injection simulation modeling; and (5) experimental techniques yet to be developed.

Proposed Project Schedule

The project proposed by AEP includes four phases consisting of planning, design, construction, and operation of the CCS system. There will be a four-year DOE demonstration phase. AEP plans to start construction in 2013 and begin commercial operations (demonstration phase) by 2015. The schedule is contingent upon AEP receiving the necessary permits and regulatory approvals, as well as financial closing on all the necessary funding sources, including DOE's financial assistance. DOE's decision to provide financial assistance for detailed design, procurement of equipment, construction, and operations is contingent upon DOE's completion of the NEPA process and the EIS.

Connected and Cumulative Actions

Under the cooperative agreement between DOE and AEP, DOE would share in the cost of the CCS facilities, injection wells, monitoring wells, pipelines, supporting facilities and site infrastructure, and the operational costs during the 4-year demonstration phase. For other activities that would not occur if not for DOE funding, DOE will evaluate in the EIS and consider the potential impacts associated with these activities as connected actions.

DOE will consider the cumulative impacts of the cost-shared activities along with any other connected actions, including those of third parties. Cumulative impacts analysis will include the analysis of pollutant emissions (including greenhouse gas emission reductions) and other incremental impacts that, when added to past, present and reasonably foreseeable future impacts, may have significant effects on the human environment.

Alternatives, Including the Proposed Action

NEPA requires that an EIS evaluate the range of reasonable alternatives to an agency's proposed action. The range of reasonable alternatives encompasses those alternatives that would satisfy the underlying purpose and need for agency action. The purpose and need for DOE action—providing limited financial assistance to the proposed AEP project—are to advance the CCPI program by selecting projects that have the best chance of achieving the program's objectives as established by Congress: The commercialization of clean coal technologies that advance efficiency, environmental performance, and cost competitiveness well beyond the level of technologies that are currently in service.

DOE's NEPA regulations include a process for identifying and analyzing reasonable alternatives in the context of providing financial assistance through competitive selection of projects proposed by entities outside the Federal government. The range of reasonable alternatives in competitions for grants, loans, loan guarantees and other financial support is defined initially by the range of responsive proposals received by DOE. Unlike projects undertaken by DOE itself, the Department cannot mandate what outside entities propose, where they propose their project, or how they propose to do it, beyond expressing basic requirements in the funding

opportunity announcement; and these express requirements must be limited to those that further the program's objectives. DOE's decision is then limited to selecting among the applications that meet the CCPI's goals.

Recognizing that the range of reasonable alternatives in the context of financial assistance and contracting processes is in large part determined by the number and nature of the proposals received, Section 216 of DOE's NEPA implementing regulations requires the Department to prepare an "environmental critique" that assesses the environmental impacts and issues relating to each of the proposals that the DOE selecting official considers for an award (*see* 10 CFR § 1021.216). This official considers these impacts and issues, along with other aspects of the proposals (such as technical merit and financial ability) and the program's objectives, in making awards. DOE prepared a critique of the proposals that were deemed suitable for selection in this round of awards for the CCPI program.

After DOE selects a project for an award, the range of reasonable alternatives becomes the project as proposed by the applicant, any alternatives still under consideration by the applicant or that are reasonable within the confines of the project as proposed (*e.g.,* the particular location of the processing units, pipelines, and injection sites on land proposed for the project) and a "no action" alternative. Regarding the no action alternative, DOE assumes for purposes of the EIS that, if DOE decides to withhold financial assistance, the project would not proceed.

DOE currently plans to evaluate the project as proposed by AEP (with and without any mitigating conditions that DOE may identify as reasonable and appropriate), alternatives to AEP's proposal that it is still considering (*e.g.,* sales options for CO_2, location of alternative pipeline routes, and location of injection and monitoring wells on properties owned by AEP), and the no action alternative. DOE will consider other reasonable alternatives suggested during the scoping period.

Under the no action alternative, DOE would not provide funding to AEP. In the absence of financial assistance from DOE, AEP could reasonably pursue two options. It could build the project without DOE funding; the impacts of this option would be essentially the same as those of AEP's proposed action, except any DOE-required mitigations would not be imposed. Alternatively, AEP could choose not to pursue its project, and there would be no impacts from the project. This latter option would not contribute to the goal of the CCPI program, which is to accelerate commercial deployment of advanced coal technologies that provide the United States with clean, reliable, and affordable energy. However, as required by NEPA, DOE analyzes this option as the no action alternative for the purpose of making a meaningful comparison between the impacts of DOE providing financial assistance and withholding that assistance.

Alternatives considered by AEP in developing its proposed project will also be discussed in the EIS. AEP is considering locations for the injection and monitoring wells on properties selected by AEP, and the pipeline corridors to be used to transport CO_2 for sequestration.

Floodplains and Wetlands

The footprint of the proposed Mountaineer CCS II Project that would be constructed at the existing Mountaineer Plant and on other nearby AEP properties would be designed to avoid or minimize potential impacts to wetlands or floodplains. Wetland and floodplain impacts, if any, which would be expected to result from installation of monitoring and injection wells, or the construction of CO_2 pipelines or other linear features required for this project, would be identified during preparation of the EIS and described in the EIS. In the event that the EIS identifies wetlands and floodplains that would be affected by the proposed project, including as a result of pipeline routes, injection facilities, or connected actions, DOE will prepare a floodplain and wetland assessment in accordance with its regulations at 10 CFR Part 1022, and include the assessment in the EIS.

Preliminary Identification of Environmental Issues

DOE intends to address the issues listed below when considering the potential impacts resulting from the construction and operation of AEP's proposed project and any connected actions. This list is neither intended to be all-inclusive, nor to be a predetermined set of potential impacts. DOE invites comments on whether this is the correct list of important issues that should be considered in the EIS. *The preliminary list of potentially affected resources or activities and their related environmental issues includes:*

- *Air quality resources:* Potential air quality impacts from emissions during construction and operation of the CCS facilities and appurtenant facilities on local sensitive receptors, local environmental conditions, and special-use areas, including impacts to smog and haze and impacts from dust and any significant vapor plumes, including greenhouse gas emissions;
- *Water resources:* Potential impacts from water utilization and consumption, plus potential impacts from wastewater discharges;
- *Infrastructure and land use:* Potential environmental and socioeconomic impacts associated with the project, including delivery of feed materials and distribution of products (*e.g.,* access roads, pipelines);
- *Visual resources:* Potential impacts to the view shed, scenic views (*e.g.,* impacts from the injection wells, pipelines, and support facilities for the injection wells and pipelines), and internal and external perception of the community or locality;
- *Solid wastes:* Pollution prevention and waste management issues (generation, treatment, transport, storage, disposal or use), including potential impacts from the generation, treatment, storage, and management of hazardous materials and other solid wastes;
- *Ecological resources:* Potential on-site and off-site impacts to vegetation, wildlife, threatened or endangered species, and ecologically sensitive habitats;
- *Floodplains and wetlands:* Potential wetland and floodplain impacts from construction of project facilities, pipelines and other facilities;
- *Traffic:* Potential impacts from the construction and operation of the facilities, including changes in local traffic patterns, deterioration of roads, traffic hazards, and traffic controls;
- *Historic and cultural resources:* Potential impacts related to site development and the associated linear facilities (pipelines, etc.);
- *Geology:* Potential impacts from the injection and storage of CO_2 on underground resources such as ground water supplies, mineral resources, and fossil fuel resources;
- Fate and stability of CO_2 being sequestered;
- *Health and safety issues:* Potential impacts associated with use, transport, and storage of hazardous chemicals (including ammonia), and CO_2 capture and transport to the sequestration site(s);
- Socioeconomic impacts, including the creation of jobs;
- Disproportionate adverse impacts on minority and low-income populations;
- *Noise and light:* Potential impacts from construction, transportation of materials, and facility operations;

• *Connected actions:* Potential development of support facilities or supporting infrastructure;
• Cumulative effects that result from the incremental impacts of the proposed project when added to other past, present, and reasonably foreseeable future projects;
• Compliance with regulatory and environmental permitting requirements; and
• Environmental monitoring plans associated with the carbon capture facility and CO_2 sequestration activities.

Public Scoping Process

This Notice of Intent initiates the scoping process under NEPA, which will guide the development of the Draft EIS. To ensure identification of issues related to DOE's Proposed Action and AEP's Proposed Project, DOE seeks public input to define the scope of the EIS. The public scoping period will end 30 days after publication of this NOI in the **Federal Register.** Interested government agencies, private-sector organizations and individuals are encouraged to submit comments or suggestions concerning the content of the EIS, issues and impacts that should be addressed, and alternatives that should be considered. Scoping comments should clearly describe specific issues or topics that the EIS should address. Written, e-mailed, or faxed comments should be received by Friday, July 9, 2010 (*see* **ADDRESSES**).

DOE will conduct a public scoping meeting at the New Haven Elementary School at 138 Mill Street in New Haven, West Virginia, on Tuesday, June 22, 2010. Oral comments will be heard during the formal portion of the scoping meeting beginning at 7 p.m. The public is also invited to learn more about the project at an informal session at this location beginning at 5 p.m. DOE requests that anyone who wishes to speak at this public scoping meeting should contact Mr. Mark Lusk, either by phone, e-mail, fax, or postal mail (*see* **ADDRESSES**).

Those who do not arrange in advance to speak may register at the meeting (preferably at the beginning of the meeting) and may be given an opportunity to speak after previously scheduled speakers. Speakers will be given approximately five minutes to present their comments. Those speakers who want more than five minutes should indicate the length of time desired in their request. Depending on the number of speakers, DOE may need to limit all speakers to five minutes initially and provide second opportunities as time permits. Individuals may also provide written materials in lieu of, or supplemental to, their presentations. Oral and written comments will be given equal consideration.

DOE will begin the formal meeting with an overview of AEP's proposed project. The meeting will not be conducted as an evidentiary hearing, and speakers will not be cross-examined. However, speakers may be asked questions to help ensure that DOE fully understands the comments or suggestions. A presiding officer will establish the order of speakers and provide any additional procedures necessary to conduct the meeting. A stenographer will record the proceedings, including all oral comments received.

Issued in Washington, DC, this 2nd day of June 2010.

James J. Markowsky,

Assistant Secretary, Office of Fossil Energy.

[FR Doc. 2010–13568 Filed 6–4–10; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

[Case No. RF–013]

Energy Conservation Program for Consumer Products: Decision and Order Granting a Waiver to Haier From the Department of Energy Residential Refrigerator and Refrigerator-Freezer Test Procedure

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

ACTION: Decision and Order.

SUMMARY: The U.S. Department of Energy (DOE) gives notice of the decision and order (Case No. RF–013) that grants to Haier Group and Haier America Trading, L.L.C. (Haier) a waiver from the DOE electric refrigerator and refrigerator-freezer test procedure for certain basic models containing relative humidity sensors and adaptive control anti-sweat heaters. Under today's decision and order, Haier shall be required to test and rate its refrigerator-freezers with adaptive control anti-sweat heaters using an alternate test procedure that takes this technology into account when measuring energy consumption.

DATES: This Decision and Order is effective June 7, 2010.

FOR FURTHER INFORMATION CONTACT: Dr. Michael G. Raymond, U.S. Department of Energy, Building Technologies Program, Mailstop EE–2J, 1000 Independence Avenue, SW., Washington, DC 20585–0121. Telephone: (202) 586–9611, E-mail: *Michael.Raymond@ee.doe.gov.*

Jennifer Tiedeman, U.S. Department of Energy, Office of the General Counsel, Mail Stop GC–71, 1000 Independence Avenue, SW., Washington, DC 20585–0103, (202) 287–6111, E-mail: *Jennifer.Tiedeman@hq.doe.govmailto:.*

SUPPLEMENTARY INFORMATION: In accordance with Title 10 of the Code of Federal Regulations (10 CFR) 430.27(l), DOE gives notice of the issuance of its decision and order as set forth below. The decision and order grants Haier a waiver from the applicable residential refrigerator and refrigerator-freezer test procedures in 10 CFR part 430, subpart B, appendix A1 for certain basic models of refrigerator-freezers with relative humidity sensors and adaptive control anti-sweat heaters, provided that Haier tests and rates such products using the alternate test procedure described in this notice. Today's decision prohibits Haier from making representations concerning the energy efficiency of these products unless the product has been tested consistent with the provisions and restrictions in the alternate test procedure set forth in the decision and order below, and the representations fairly disclose the test results. Distributors, retailers, and private labelers are held to the same standard when making representations regarding the energy efficiency of these products. 42 U.S.C. 6293(c).

Issued in Washington, DC, on May 27, 2010.

Cathy Zoi,

Assistant Secretary, Energy Efficiency and Renewable Energy.

Decision and Order

In the Matter of: Haier Group and Haier America Trading, L.L.C. (Case No. RF–013).

Background

Title III of the Energy Policy and Conservation Act (EPCA) sets forth a variety of provisions concerning energy efficiency, including Part A, which provides for the "Energy Conservation Program for Consumer Products Other Than Automobiles." 42 U.S.C. 6291–6309. Part A of Title III includes definitions, test procedures, labeling provisions, energy conservation standards, and the authority to require information and reports from manufacturers. Further, EPCA authorizes the Secretary of Energy to prescribe test procedures that are reasonably designed to produce results that measure energy efficiency, energy