

**DEPARTMENT OF AGRICULTURE****Commodity Credit Corporation****7 CFR Part 1400****RIN 0560-AG86****Income Limits****AGENCY:** Commodity Credit Corporation, USDA.**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule would implement provisions of the Farm Security and Rural Investment Act of 2002 regarding limits on the income of persons eligible for program participation. These regulations set forth the criteria to be applied in determining whether certain income limits have been exceeded by an individual or entity and thus making such individual or entity ineligible for certain Commodity Credit Corporation (CCC) commodity and conservation program benefits. The proposed rule, generally, provides that for individuals CCC will use the adjusted gross incomes reported by the individual in the prior three years to the Internal Revenue Service (IRS), United States Department of Treasury, and a comparable amount for all other entities such as corporations, limited partnerships, and charitable institutions.

**DATES:** To be assured of consideration comments must be received by November 27, 2002.

**ADDRESSES:** Comments and requests for further information should be directed to Dan McGlynn, Production, Emergencies and Compliance Division, United States Department of Agriculture (USDA), Stop 0517, 1400 Independence Ave. SW., Washington, DC 20250-0517. Telephone: (202) 720-3463. Electronic mail: [Income\\_Limits@wdc.usda.gov](mailto:Income_Limits@wdc.usda.gov). Persons with disabilities who require alternative means for communication (Braille, large print, audio tape, etc.) should contact the USDA Target Center at (202) 720-2600 (voice and TDD).

**SUPPLEMENTARY INFORMATION:****Notice and Comment**

Section 1601(c) of the Farm Security and Rural Investment Act of 2002 (the 2002 Act) provides that the regulations needed to implement Title I of the 2002 Act, including those involved here, may be promulgated without regard to the notice and comment provisions of 5 U.S.C. 553 or the Statement of Policy of the Secretary of Agriculture effective July 24, 1971, (36 FR 13804) relating to notices of proposed rulemaking and public participation in rulemaking.

Because the provisions of the rule are not effective until the 2003 crop, and due to the complexity of the issues presented in the rule, it has been determined that it is in the public's interest to solicit comments on this rule before it becomes effective.

**Executive Order 12866**

This proposed rule has been determined to be significant under Executive Order 12866 and has been reviewed by the Office of Management and Budget (OMB).

**Federal Assistance Programs**

This proposed rule has a potential impact on all programs listed in the Catalog of Federal Domestic Assistance in the Agency Program Index under the Department of Agriculture, Farm Service Agency and Natural Resources Conservation Service. Other assistance programs are also impacted.

**Regulatory Flexibility Act**

The Regulatory Flexibility Act is not applicable to this rule because the Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other law to publish a notice of proposed rulemaking for the subject matter of this rule.

**Environmental Assessment**

The environmental impacts of this rule have been considered under the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*, the regulations of the Council on Environmental Quality (40 CFR parts 1500-1508), and regulations of the Farm Service Agency (FSA) of the Department of Agriculture (USDA) for compliance with NEPA, 7 CFR part 799. An Environmental Evaluation was completed and the proposed action has been determined not to have the potential to significantly impact the quality of the human environment and no environmental assessment or environmental impact statement is necessary. A copy of the environmental evaluation is available for inspection and review upon request.

**Executive Order 12778**

This rule has been reviewed under Executive Order 12778. This rule preempts State laws that are inconsistent with it, however, this rule is not retroactive. Before judicial action may be brought concerning this rule, all administrative remedies must be exhausted.

**Executive Order 12372**

This program is not subject to Executive Order 12372, which requires

intergovernmental consultation with State and local officials. See the notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

**Unfunded Mandates**

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) does not apply to this rule because CCC is not required by 5 U.S.C. 553 or any other law to publish a notice of proposed rulemaking for the subject matter of this rule. Also, this rule contains no mandates as defined in sections 202 and 205 of UMRA.

**Paperwork Reduction Act**

Section 1601(c) of the 2002 Act provides that the promulgation of regulations and the administration of Title I of the 2002 Act shall be done without regard to chapter 5 of title 44 of the United States Code (the Paperwork Reduction Act). Accordingly, these regulations and the forms and other information collection activities needed to administer the program authorized by these regulations are not subject to review by the Office of Management and Budget under the Paperwork Reduction Act.

**Government Paperwork Elimination Act**

FSA is committed to compliance with the Government Paperwork Elimination Act (GPEA) and the Freedom to E-File Act, which require Government agencies in general and FSA in particular to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. The form that applicants will use to certify their income is being developed for on-line use. However, because of the nature of the other paperwork and documentation that may be needed to verify eligibility based on income, the use of electronic means of submission for those information collections is not feasible at this time.

**Background and Discussion**

The 2002 Act authorized new programs and benefits, including direct payments and counter-cyclical payments for producers of certain covered commodities and for payments and other benefits under a number of new and revised conservation programs. Section 1603 of that Act amended the Food Security Act of 1985 by adding a new section 1001D to provide that individuals or entities shall not be eligible to receive direct payments, counter-cyclical payments, marketing loan gains nor a payment under any of

the conservation program authorized under title XII of the Food Security Act of 1985 Act, nor a payment under the conservation programs of title II of the 2002 Act, if the three year average of the adjusted gross income of the individual, or comparable measure for an entity, exceeds \$2.5 million. An exemption, though, is provided where not less than 75 percent of the adjusted gross income is derived from farming, ranching, or forestry operations. In determining the scope of coverage to an individual or entity, section 1001D(a)(1) provides:

In this section, the term "average adjusted gross income", with respect to an individual or entity (for purposes of this section as defined in section 1001(e)(2)(A)(ii)), means the 3-year average of the adjusted gross income or comparable measure of the individual or entity over the preceding tax years, as determined by the Secretary.

Section 1001 of the 1985 Act sets forth the statutory payment limitations applicable to certain commodity and conservation program benefits. Generally, these provisions have been the same since enactment in 1987, with amendments made since then to include new payments authorized by statutes enacted after 1987, and provide that the total amount of specified payments that a "person" may receive are limited to specified amounts per year. Section 1001(e)(2)(A) contains one of the fundamental components of the statutory payment limitation scheme in that it defines the term "person" as follows:

\* \* \* the term "person" means—

(i) An individual, including any individual participating in a farming operation as a partner in a general partnership, a participant in a joint venture, a grantor of a revocable trust, or a participant in a similar entity (as determined by the Secretary);

(ii) A corporation, joint stock company, association, limited partnership, charitable organization, or other similar entity (as determined by the Secretary, including any such entity or organization participating in the farming operation as a partner in a general partnership, a participant in a joint venture, a grantor of a revocable trust, or as a participant in a similar entity (as determined by the Secretary); and

(iii) A State, political subdivision, or agency thereof.

In determining who is a "person" for purposes of section 1001D, an "entity" is specifically defined to be the same as an "entity" as provided in section 1001(e)(2)(A)(ii) of the 1985 Act. Notably, section 1001D does not contain such a mandate to use the definitions in sections 1001(e)(2)(A)(i) and (iii). Accordingly, this proposed rule provides that the definition of an "entity" shall be the same for purposes of sections 1001 and 1001D of the 1985

Act. In order to provide consistency in the application of both sections 1001 and 1001D, the proposed rule also provides that the definition of an "individual" will be the same for both purposes.

This proposed rule does not propose to extend the adjusted gross income limits to States, counties, political subdivisions, agencies thereof, or recognized Indian tribes because Governmental organizations do not have "income" similar to the other listed individuals and entities.

The term "adjusted gross income," for IRS purposes, applies only to taxpayers who are "individuals." Thus, this proposed rule proposes, for individuals, that adjusted gross income be based on the IRS definition of that term and associated filings. Section 1001D(a)(1) takes into account the limited use of this term by providing that the Secretary is to fashion a "comparable measure" for other entities. In order to maintain a consistent application of this statutory provision as compared to its application to individuals, this proposed rule proposes that prior years' tax filings will be the starting point of reference. In addition, due to the severe penalties associated with the filing of a false tax return, CCC has determined that such information is likely to be the most credible evidence available to determine this "comparable measure" of adjusted gross income. While this proposed rule defines the adjusted gross income for the different program participants, the proposed rule does not specify the line item on tax returns for participants from which the critical information will be gathered since such references may likely change from year-to-year. CCC anticipates that the CCC forms that will be used to make these determinations will specify the specific lines from various IRS forms that will be used. To the extent information from the entity is needed that can not be ascertained solely from the IRS forms, CCC will specify in its forms what other information is needed. Because of the large number of business entities that may be affected by this rule and the desire to rely to the maximum extent possible only on the information already set forth on the IRS forms, CCC specifically requests comments on which IRS forms and lines on the forms that would be rational to use in the application of this rule.

For individuals, the adjusted gross income would be the amount so specified on the individual's final (including amendments) tax return for the applicable year. Where there is a joint return filed, the adjusted gross income specified on the joint return will

be used unless a certified public accountant or attorney provides a certified statement delineating the distribution of income and expenses if the two taxpayers would have filed separate returns. Accordingly, it is possible that one tax return will be used by more than one individual for purpose of this rule.

For corporations including a "subchapter S corporation", the adjusted gross income will be the final taxable income plus charitable contributions. The proposed rule includes charitable contributions in order to provide equitable treatment vis-a-vis individuals. For an individual, charitable deductions are deducted from adjusted gross income, along with a variety of other items, to determine the individual's taxable income. Generally, the other items deducted from an individual's adjusted gross income, such as personal exemptions and child care credits, do not have a corresponding relevancy on a corporate return. Inclusion of charitable contributions by corporations would, in the view of CCC, be more comparable to the actions of an individual.

For charitable organizations with income that is not subject to Federal income taxation, the comparable measure of adjusted gross income is proposed to be "unrelated business taxable income" of the entity as reported to the Internal Revenue Service less any other income CCC determines to be from commercial activities. Currently, that amount is specified on line 34 of Internal Revenue Service Form 990-T. Generally, this would exclude from inclusion as adjusted gross income receipts that are gifts, grants and contributions that are tax deductible by the donor; and receipts from rent, royalties and asset sales. Effectively, the adjusted gross income for these entities would be the net income from only their commercial activities.

For a general partnership, foreign partnership, limited liability company, limited partnership, limited liability partnership or similar organization, the adjusted gross income will be the sum of the income from trade or business activities plus the guaranteed payments to the members as reported for the applicable tax year.

For an estate or trust, the adjusted gross income will be the sum of the adjusted total income plus the charitable deductions as reported for the applicable tax year.

Individuals and entities who have adjusted gross income in excess of \$2.5 million and whose average adjusted gross income from farming, ranching, and forestry is less than 75 percent of

such income are ineligible for the specified CCC program benefits. The determination of this income from farming, ranching and forestry will be that which is included in the individual's adjusted gross income. Generally, for farming and ranching incomes, this amount will be from the IRS forms used to determine farm income, currently IRS form 4865 and Schedule F, and would represent the net income from the farming operation after deductions for the cost of production. CCC specifically requests comments on what should be classified as income from farming, ranching and forestry activities. Income derived from forestry operations, to the extent it is not reported on these forms, would be the subject of a separate report by the individual or entity.

With respect to those persons who have exceeded the \$2.5 million threshold, Congress intended that those persons who are dependent upon farming, ranching and forestry should be accorded deferential treatment; however, there is no legislative history with respect to the manner in which income derived from specific types of asset sales should be treated. Because of the inherent inability of CCC to try to distinguish the treatment of different types of sales of assets, CCC proposes that:

(1) Income from selling land used to produce forestry or agricultural commodities would not be considered to be derived from farming, ranching or forestry;

(2) Farm or forestry implement sales by a retail dealership would not be considered farm or forestry income but the sale of equipment otherwise subject to depreciation expense on the IRS Form 4865 or Schedule F would be considered to be included as such income;

(3) Investment income of an individual would not be considered income from farming, ranching or forestry even though the invested funds were derived from such sources;

(4) Income from sales at a market would only be considered to be income from farming, ranching and forestry if the commodity being sold was produced by the person;

(5) Income from sales as a commission broker, auctioneer or warehouse operator or similar enterprise would not be income from farming, ranching or forestry; and

(6) In integrated operations, undifferentiated income, for example, income that could not be differentiated between income for the production of the tree and for the sale of a finished product, would not be considered to be

derived from farming, ranching and forestry.

Section 1603 also requires a commensurate reduction in the share of payments going to an entity which is proportional to the interest held in the entity by parties whose adjusted gross income is over \$2.5 million. Information regarding ownership of interests in entities will be requested to a maximum of five levels of organization. Based upon past experience in administering the provisions of section 1001 relating to the maximum amount of specified payments a person may receive, CCC has determined that business enterprises comprised of such layered ownership generally are done so simply to maximize the receipt of government payments.

The proposed rule also provides that payments, incidental to the actual program payments, made to vendors that receive payment for services or technical assistance that otherwise would be provided to producers and program participants by the government will not be included as payments and benefits subject to this limitation.

#### *Cost/Benefit Analysis*

The adjusted gross income limitation not only applies payments under the commodity and price support programs, but to all payments and benefits under the conservation and related programs. Included, but not limited to, are direct and counter-cyclical payments, conservation reserve and environmental quality incentive program payments, loan deficiency payments and marketing loan gains.

For the 2003 through 2007 crop, program or fiscal years, an individual or entity is not eligible for payments or benefits from the above-mentioned programs if their average adjusted gross income exceeds \$2.5 million for the 3 tax years immediately preceding the applicable crop, program or fiscal year. This requirement applies unless 75 percent or more of that average adjusted gross income amount was derived from farming, ranching or forestry operations.

The determinations necessary for compliance with the adjusted gross income requirement will be based on Internal Revenue Service concepts and information included on final tax filings. Comparable measures for adjusted gross income have been developed for entities, partnerships and for organizations that do not have such a line item on tax filings, and that are non-profit, or are not required to file tax information.

Under the adjusted gross income provisions, there is a required commensurate reduction of program

payments in the situations where an individual or entity fails to comply. Any program payment or benefit issued to an entity, general partnership, or joint venture shall be reduced by an amount commensurate with the direct or indirect interest held by that individual or entity that is determined to have an average adjusted gross income that exceeds the limitation.

Note that those ineligible for marketing loan gains and loan deficiency payments because of the adjusted gross income restriction may still be eligible to participate in the marketing assistance loan programs. Further, when commodity prices decrease they will still be able to use commodity certificates to repay those loans at rate lower than the original loan rates. Benefits they realize from the reduced payment rate, essentially the same as marketing loan gains, are subject neither to payment limits nor the adjusted gross income restrictions.

The 2002 Act mandates that the adjusted gross income requirement apply to the 2003 through 2007 crop years. In May 2002, the Congressional Budget Office estimated that savings from the adjusted gross income requirement will total \$22 million in fiscal years 2002 through 2006.

The Cost/Benefit Assessment of the adjusted gross income limitation is available from James Baxa, Production, Emergencies, and Compliance Division, United States Department of Agriculture (USDA), 1400 Independence Ave, SW, Washington, DC 20250. Phone: (202) 720-4189. E-mail: [James.Baxa@wdc.usda.gov](mailto:James.Baxa@wdc.usda.gov).

#### **List of Subjects in 7 CFR Part 1400**

Agriculture, Price support programs, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, CCC proposes to amend 7 CFR part 1400 as follows:

#### **PART 1400—PAYMENT LIMITATION AND PAYMENT ELIGIBILITY**

1. The authority citation for part 1400 is continues to read as follows:

**Authority:** 7 U.S.C. 1308 *et seq.*

2. Section 1400.1 is amended by adding a new paragraph (h) to read as follows:

##### **§ 1400.1 Applicability.**

\* \* \* \* \*

(h) As provided in subpart G of this part, additional requirements are applicable to certain of the payments specified in paragraph (g) of this section.

3. Subpart G is added to read as follows:

**Subpart G—Average Adjusted Gross Income Limitation**

Sec.

- 1400.600 Applicability.
- 1400.601 Determination of average adjusted gross income.
- 1400.602 Compliance.
- 1400.603 Commensurate reduction.

**Subpart G—Average Adjusted Gross Income Limitation**

**§ 1400.600 Applicability.**

(a) For the 2003 through 2007 crops, programs or fiscal years, an individual or entity is not eligible for any payment or benefit identified in § 1400.1 as being subject to this part if the individual's or entity's average adjusted gross income exceeds \$2.5 million for the 3 tax years immediately preceding the applicable crop, program or fiscal year. Payments may also be reduced under the commensurate share rules set out in § 1400.603.

(b) Notwithstanding paragraph (a) of this section, the individual or entity may be considered to meet the requirements of this subpart if not less than 75 percent of the individual's or entity's average adjusted gross income for the 3 tax years immediately preceding the applicable crop, program or fiscal year, is derived from farming, ranching, and forestry operations.

(c) In addition to payments or benefits identified under § 1400.1, this subpart applies to benefits provided to participants under contracts or agreements entered into during the 2003 through 2007 fiscal years for the following programs:

(1) The program authorized by part 1466 of this chapter or its successor regulations;

(2) The program authorized by part 1467 of this chapter or its successor regulations;

(3) The program authorized by part 636 of this chapter or its successor regulations;

(4) Any other program authorized by Title XII of the Food Security Act of 1985, as amended, or Title II of the Farm Security and Rural Investment Act of 2002.

(d) Determinations made under this subpart with regard to the programs described in paragraph (c) of this section will be based on the year the contract or agreement is approved and that determination will apply for the entire term of the subject agreement or contract.

(e) Vendors that receive payment for technical services or assistance provided in conjunction with programs

under Title II of the 2002 Act and Title XII of the 1985 Act, but who are not in the class of persons who are beneficiaries of the program, are not subject to this subpart for services that are of the type that are also performed by the Federal Government.

(f) Payments to a person as an escrow agent or other similar capacity in which the recipient is maintaining temporary custody of the funds for eventual disbursement to eligible program participant are not subject to this part so long as the party ultimately receiving the payment is eligible under this part.

(g) Payments to States, counties, political subdivisions and agencies thereof, and Indian tribes are not subject to this subpart.

**§ 1400.601 Determination of average adjusted gross income.**

(a) For purposes of this subpart, *income from farming, ranching and forestry* means income derived from producing crops, livestock and unfinished raw forestry products.

(b) For purposes of this subpart, *adjusted gross income* means:

(1) For an individual filing a separate tax return, the amount reported as adjusted gross income on the final federal tax return for the individual for the applicable tax year;

(2) For an individual filing a joint tax return, the amount reported as "adjusted gross income" on the final filed federal tax return for the applicable tax year unless a certified statement is provided by a certified public accountant or attorney specifying the manner in which such income would have been determined if the individuals had filed two separate returns and that this calculation is consistent with the information actually supporting the filed joint return;

(3) For a corporation, including a subchapter S corporation, the total final reported "taxable income" as reported to the Internal Revenue Service plus the amount of the charitable contributions as reported on the final federal income tax return for the applicable tax year;

(4) For a tax exempt entity, the adjusted gross income is the "unrelated business taxable income" of the entity as reported to the Internal Revenue Service, less any other income CCC determines to be from non-commercial activities;

(5) For a limited liability company, limited partnership, limited liability partnership or similar type of organization, the income from trade or business activities plus the amount of guaranteed payments to the members as reported on the federal tax return for the applicable year; and

(6) For an estate or trust, the adjusted total income plus charitable deductions as reported on the federal tax return for the applicable tax year.

(c) For purposes of applying this subpart and calculating the three-year average referenced in § 1400.600, that average shall be for the adjusted gross income for the three tax years immediately preceding the applicable crop, program or fiscal year, as determined by CCC, excluding any year in which the individual or entity did not have income or had adjusted gross income considered to be zero.

**§ 1400.602 Compliance.**

(a) To comply with the adjusted gross income limitation, an individual or entity shall provide either as required by CCC:

(1) A certification in the manner prescribed by CCC from a certified public accountant or attorney that the individual's or entity's average adjusted gross income of the individual or entity does not exceed this limitation; or

(2) Submission to CCC of the relevant Internal Revenue Service documents and supporting financial data as requested by CCC. Such information may include State income tax returns, financial statements, balance sheets, reports prepared for or provided to another Government agency, information prepared for a private lender, and other credible source of information relating to the amount and source of the person's income.

(b) Audits of certifications of average adjusted gross income may be conducted as necessary to determine compliance with requirements of this part. As a part of this audit income tax forms may be requested and if requested must be supplied. If a person has submitted information to CCC, including a certification from a certified public accountant or attorney, that relied upon information from a form previously filed with the Internal Revenue Service, such person shall provide to CCC a copy of any amended form filed with the Internal Revenue Service within 30 days of the filing.

(c) The program participant shall provide all information and documentation the reviewing authority determines necessary to verify any information or certification provided under this part, including all documents referred to in paragraph (a)(2) of this section. Failure to provide necessary and accurate information to verify compliance, or failure to comply with the this subpart's requirements, will result in the determination of ineligibility for all program benefits for the year or years subject to the request.

**§ 1400.603 Commensurate reduction.**

(a) Any program payment or benefit subject to this part provided to an entity, general partnership or joint venture shall be reduced by an amount commensurate with the direct and indirect ownership interest in the entity, general partnership, or joint venture of each individual or entity determined to have an average adjusted gross income in excess of this limitation under the standards elsewhere provided in this subpart for the direct recipient of such payments.

(b) Ownership interest in an entity shall be reviewed to the fifth level of ownership to determine whether a commensurate reduction is applicable and the extent of such reduction. If an ownership interest is not held by an individual in any of the first five levels of ownership, no payment or benefit shall be made with respect to such interest.

Signed in Washington, DC, on October 21, 2002.

**James R. Little,**

*Executive Vice President, Commodity Credit Corporation.*

[FR Doc. 02-27227 Filed 10-25-02; 8:45 am]

BILLING CODE 3410-05-P

**DEPARTMENT OF ENERGY****Office of Energy Efficiency and Renewable Energy****10 CFR Part 430**

[Docket Nos. EE-RM/TP-02-002; EE-RM/STD-02-330]

**Energy Conservation Program for Consumer Products: Test Procedure for Residential Central Air Conditioners and Heat Pumps; Energy Conservation Standards for Small Duct High Velocity Air Conditioners and Heat Pumps**

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

**ACTION:** Notice of public workshop.

**SUMMARY:** The Department of Energy (DOE or Department) is convening a public workshop to discuss and receive comments on several issues related to test procedures for residential central air conditioners and heat pumps and energy conservation standards for small-duct high-velocity (SDHV) central air conditioners and heat pumps.

**DATES:** The public workshop will be held on Friday, December 13, 2002, from 9 a.m. to 4 p.m. Comments submitted by electronic mail will be

considered timely if they are submitted by 11:59 p.m. (Eastern time) January 8, 2003. Written comments, data and information, and a signed original with an electronic copy on diskette, must be received at the Department of Energy by January 8, 2003.

**ADDRESSES:** The workshop will be held at the U.S. Department of Energy, Forrestal Building, Room 1E-245, 1000 Independence Avenue SW., Washington, DC 20585. (Please note that foreign nationals visiting DOE Headquarters are subject to advance security screening procedures. If you are a foreign national and wish to participate in the workshop, please inform DOE of this fact as soon as possible by contacting Ms. Crystal Branson at (202) 586-6448 so that the necessary procedures can be completed.)

On or about November 15, 2002, DOE will place a set of presentations describing the Department's research on these issues and workshop agenda on the DOE Web site at: [http://www.eren.doe.gov/buildings/codes\\_standards/](http://www.eren.doe.gov/buildings/codes_standards/). Please submit comments, data and information electronically. These should be sent to the following Internet address: [CAC@ee.doe.gov](mailto:CAC@ee.doe.gov). Electronic comments must be submitted as a WordPerfect 5.1/6.1/8 format file and avoid the use of special characters or any form of encryption. Comments in electronic format should also be identified by the docket number EE-RM/STD-02-330 (for SDHV comments), or EE-RM/TP-02-002 (for test procedure comments), and wherever possible carry the electronic signature of the author. Absent an electronic signature, comments submitted electronically must be followed and authenticated by submitting the signed original paper document. No telefacsimiles (telefaxes) will be accepted.

Written (paper) comments may be submitted to: Ms. Crystal Branson, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Energy Conservation Program for Consumer Products: Energy Conservation Standards and Test Procedures for Residential Central Air Conditioners and Heat Pumps, Docket Number: EE-RM/TP-02-002 (for test procedure comments); EE-RM/STD-02-330 (for SDHV comments), EE-2J, 1000 Independence Avenue, SW., Washington, DC 20585-0121. Telephone: (202) 586-6448. Please submit one signed copy and a computer diskette or CD (in WordPerfect™ 8 format)—no telefacsimiles.

Copies of the transcript of the public workshop, public comments received, and this notice may be read (or copied) at the Freedom of Information Reading Room, U.S. Department of Energy, Forrestal Building, Room 1E-190, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-3142, between the hours of 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mr. Michael Raymond, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, EE-2J, 1000 Independence Avenue, SW., Washington, DC 20585-0121, (202) 586-9611, e-mail: [michael.raymond@ee.doe.gov](mailto:michael.raymond@ee.doe.gov), or Mr. Michael W. Bowers, Esq., U.S. Department of Energy, Office of General Counsel, GC-72, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-8140, e-mail: [Mike.Bowers@hq.doe.gov](mailto:Mike.Bowers@hq.doe.gov).

**SUPPLEMENTARY INFORMATION:** Part B of Title III of the Energy Policy and Conservation Act of 1975 (EPCA or Act), Public Law 94-163, as amended by the National Energy Conservation Policy Act (NECPA), Public Law 95-619; the National Appliance Energy Conservation Act of 1987 (NAECA), Public Law 100-12; the National Appliance Energy Conservation Amendments of 1988 (NAECA 1988), Public Law 100-357; and the Energy Policy Act of 1992 (EPACT), Public Law 102-486, created the Energy Conservation Program for Consumer Products other than Automobiles. The consumer products subject to this program include residential central air conditioners and central air conditioning heat pumps. (42 U.S.C. 6295(d)).

The Department has been pursuing a rulemaking activity for the purpose of determining whether amended energy conservation standards for the niche central air conditioning products with small ducts and high velocities are justified. The Department also is developing additional revisions it intends to propose to the test procedures for residential central air conditioners and heat pumps. These revisions concern: (1) Establishing new default values for the cooling mode cyclic degradation coefficients; (2) increasing the minimum static pressure used in testing small duct high velocity systems; (3) testing of two-capacity heat pumps; and (4) acceptable verification units for the alternative rating method.

The workshop announced in today's notice is the next step in the rulemaking process for determining whether to