

NMFS.Pr1Comments@noaa.gov. Please include File No. 28850 in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request via email to *NMFS.Pr1Comments@noaa.gov*. The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT:

Courtney Smith, Ph.D., or Shasta McClenahan, Ph.D., (301) 427-8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222-226), and the Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*).

The applicant requests a 10-year permit to take marine mammals in the North Pacific Ocean to study distribution, abundance, long-term trends, movements, population structure, body condition, health, ecology, behavior, and impact of human activities. Up to 32 species of marine mammals may be targeted for research including the following ESA-listed species: blue (*Balaenoptera musculus*), fin (*Balaenoptera physalus*), gray (*Eschrichtius robustus*; Western North Pacific distinct population segment [DPS]), humpback (*Megaptera novaeangliae*; Western North Pacific, Mexico, and Central America DPSs), killer (*Orcinus orca*; Southern Resident DPS), North Pacific right (*Eubalaena japonica*), sei (*Balaenoptera borealis*), and sperm (*Physeter macrocephalus*) whales; Guadalupe fur seals (*Arctocephalus townsendi*) and Steller sea lions (*Eumetopias jubatus*). Research would include vessel and aerial surveys (manned and unmanned) for counts, passive acoustic recording, observations, photo-identification, photogrammetry, thermal imaging, video recording, echosounders for prey mapping, biological sampling (sloughed skin, exhaled air, feces, prey remains, skin and blubber biopsy), and tagging (suction-cup and dart). Biological samples may be imported and exported for analysis. See the application for numbers of animals requested by species and procedure.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the

activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: April 23, 2025.

Julia M. Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2025-07329 Filed 4-28-25; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF ENERGY

[Case Number 2024-008; EERE-2024-BT-PET-0008]

Energy Conservation Program: Notice of Decision and Order Granting an Exemption to E.L. Foust Co. From the Department of Energy Air Cleaner Energy Conservation Standards

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

ACTION: Notice of decision and order.

SUMMARY: The U.S. Department of Energy (DOE) hereby gives notice of a Decision and Order (Case Number 2024-008) that grants to E.L. Foust Co. (ELF) a small business exemption from the DOE air cleaner energy conservation standards. Specifically, ELF is granted an exemption from the Tier 1 energy conservation standards for air cleaners through December 30, 2025.

DATES: The Decision and Order is effective on April 29, 2025.

ADDRESSES: The docket, which includes **Federal Register** notices, comments, and other supporting documents/materials, is available for review at www.regulations.gov. All documents in the docket are listed in the www.regulations.gov index. However, some documents listed in the index, such as those containing information that is exempt from public disclosure, may not be publicly available.

The docket web page can be found at www.regulations.gov/docket/EERE-2024-BT-PET-0008. The docket web page contains instructions on how to access all documents, including public comments, in the docket.

FOR FURTHER INFORMATION CONTACT:

Mr. Jeremy Domm, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE-5B, 1000

Independence Avenue SW, Washington, DC 20585-0121. Telephone: (202) 586-9870. Email:

ApplianceStandardsQuestions@ee.doe.gov.

Ms. Ani Esenyan, U.S. Department of Energy, Office of the General Counsel, GC-33, 1000 Independence Avenue SW, Washington, DC 20585-0121.

Telephone: (202) 586-4798. Email: *ani.esenyan@hq.doe.gov*.

SUPPLEMENTARY INFORMATION: In accordance with 10 CFR part 430, subpart E, DOE gives notification of the issuance of its Decision and Order as set forth below. The Decision and Order grants ELF a small business exemption from the applicable energy conservation standards for air cleaners specified at 10 CFR 430.32(ee)(1) through December 30, 2025. If ELF chooses to make any representations concerning the energy efficiency of the its air cleaner basic models, it must do so in accordance with the DOE test procedure specified in 10 CFR 430.23(hh)(4) and appendix FF to 10 CFR part 430, subpart B (appendix FF).

Case # 2024-008

Decision and Order

I. Authority and Background

The Energy Policy and Conservation Act, Public Law 94-163, as amended (EPCA),¹ authorizes DOE to regulate the energy efficiency of a number of consumer products and certain industrial equipment. (42 U.S.C. 6291-6317) Title III, Part B of EPCA² established the Energy Conservation Program for Consumer Products Other Than Automobiles, which sets forth a variety of provisions designed to improve energy efficiency. These products include air cleaners, the subject of this document. (42 U.S.C. 6292(a)(20))

The energy conservation program under EPCA consists essentially of four parts: (1) testing, (2) labeling, (3) Federal energy conservation standards, and (4) certification and enforcement procedures. Relevant provisions of EPCA specifically include definitions (42 U.S.C. 6291), test procedures (42 U.S.C. 6293), labeling provisions (42 U.S.C. 6294), energy conservation standards (42 U.S.C. 6295), and the authority to require information and reports from manufacturers (42 U.S.C. 6296).

¹ All references to EPCA in this document refer to the statute as amended through the Energy Act of 2020, Public Law 116-260 (Dec. 27, 2020), which reflect the last statutory amendments that impact Parts A and A-1 of EPCA.

² For editorial reasons, upon codification in the U.S. Code, Part B was redesignated Part A.

Consistent with the requirements in 42 U.S.C. 6295, DOE has established energy conservation standards for air cleaners. On April 11, 2023, DOE published a direct final rule adopting the standards and compliance dates consistent with the recommendations from a group of joint stakeholders representing manufacturers, efficiency advocates, and consumer groups. 88 FR 21752. These standards apply to products manufactured in, or imported into, the United States starting on December 31, 2023, for the Tier 1 standards specified in 10 CFR 430.32(ee)(1) and on December 31, 2025, for the Tier 2 standards specified in 10 CFR 430.32.(ee)(2).

Under 42 U.S.C. 6295(t), DOE may grant a temporary exemption from an applicable energy conservation standard to a manufacturer if DOE finds that the annual gross revenues of such manufacturer from all its operations (including the manufacture and sale of covered products) does not exceed \$8,000,000 for the 12-month period preceding the date of the application. In making this finding, DOE must account for the annual gross revenues of any other person who controls, is controlled by, or is under common control with, such manufacturer (42 U.S.C. 6295(t)(1)). The Secretary may not grant an exemption with respect to any type (or class) of covered product subject to an energy conservation standard unless the Secretary finds, after obtaining the written views of the Attorney General, that a failure to allow an exemption would likely result in a lessening of competition. (42 U.S.C. 6295(t)(2))

Subpart E of 10 CFR part 430 specifies further information regarding the purpose and process for considering applications for small business exemptions under 42 U.S.C. 6295(t). Among these requirements, 10 CFR 430.52(b) specifies that an application shall be in writing and shall include the following:

- (1) Name and mailing address of applicant;
- (2) Whether the applicant controls, is controlled by, or is under common control with another manufacturer, and if so, the nature of that control relationship;
- (3) The text or substance of the standard or portion thereof for which the exemption is sought and the length of time desired for the exemption;
- (4) Information showing the annual gross revenue of the applicant for the preceding 12-month period from all of its operations (including the manufacture and sale of covered products);

(5) Information to show that failure to grant an exemption is likely to result in a lessening of competition;

(6) Such other information, if any, believed to be pertinent by the petitioner; and

(7) Such other information as the Secretary may require.

After receiving an application and accepting it for filing, DOE publishes a notice announcing the application in the **Federal Register**. 10 CFR 430.53(d). DOE transmits notice of the application for exemption to the Attorney General with: (a) a statement of the facts and of the reasons for the exemption, and (b) copies of all documents submitted. 10 CFR 430.54. After obtaining the written views of the Attorney General, the Secretary evaluates whether a failure to allow an exemption would likely result in a lessening of competition (see 10 CFR 430.55) and then issues a decision and order either granting or denying the application (see 10 CFR 430.56) in accordance with 42 U.S.C. 6295(t)(2).

II. E.L. Foust Co. Application for a Small Business Exemption

On May 27, 2024,³ E.L. Foust Co. (ELF) submitted an application, pursuant to subpart E of 10 CFR part 430, requesting a small business exemption from the energy conservation standards at 10 CFR 430.32(ee). As discussed previously, there are two tiers of standards for air cleaners. Compliance with the Tier 2 standards is not required until December 31, 2025, which is the date on which the requested exemption from the December 31, 2023, Tier 1 standards expires. As such, DOE did not consider an exemption for ELF for the Tier 2 standards. ELF will need to submit a separate application if they wish to request an exemption from the Tier 2 standards. Such an application would need to include current financial information available at that time and information regarding impacts on competition with respect to the Tier 2 standards.

ELF requested an exemption on the basis of its status as a small business. According to ELF, failure to receive a small business exemption would likely result in a lessening of competition in the market for air cleaners. ELF requested that the exemption apply for two years. In its application, ELF referred to the market for air cleaners intended for people with multiple chemical sensitivity. Specifically, ELF stated that its air purifiers are built with

zero plastic or glue to eliminate volatile organic compounds (VOCs), and they offer particulate filtration. ELF claimed that larger companies do not offer these types of air cleaners, and estimated that five manufacturers, including ELF, specifically serve the market by not using plastics and glues in their air cleaners and by providing substantial gas phase filtration media. ELF stated that three of these manufacturers are based in the United States and that if DOE does not grant ELF an exemption, the market would be reduced to two U.S. manufacturers. ELF stated that the effects of the rule on those manufacturers is not known. ELF also stated that less competition in the non-plastic air cleaner market would accelerate the loss of non-plastic air cleaners and those products would become more expensive to consumers.

On October 7, 2024, DOE issued a notice announcing the receipt of and publishing ELF's application for exemption. 89 FR 81059. In accordance with its regulations, DOE also transmitted ELF's application for exemption to the Attorney General along with: (a) A statement of the facts and of the reasons for the exemption, and (b) copies of all documents submitted. 10 CFR 430.54.

In response to the 2024 notice announcing ELF's application, DOE received comments submitted by Daikin Comfort Technologies North America, Inc. (Daikin)⁴ and Michael Ravnitzky (Ravnitzky)⁵. Daikin opposed the small business exemption, noting that there are about 5 manufacturers in this segment of the air cleaner market making products without plastics or glue to eliminate VOCs for people who suffer from multiple chemical sensitivity, and that granting the waiver will lessen the energy savings of the air cleaner energy conservation standards and provide an unfair cost advantage for ELF's products. Ravnitzky supported the request for a two-year waiver due to concern for the impact that denying the waiver would have on individuals with multiple chemical sensitivity.

III. Consultation with Other Agencies

Per 42 U.S.C. 6295(t)(2), DOE obtained the written views of the Attorney General concerning ELF's application for exemption. Under this statutory provision, DOE may only grant a small business exemption if it has consulted with the Attorney General

⁴ Daikin's comments can be accessed at: www.regulations.gov/comment/EERE-2024-BT-PET-0008-0003.

⁵ Ravnitzky's comments can be accessed at: www.regulations.gov/comment/EERE-2024-BT-PET-0008-0002.

³ The date in ELF's application is specified as May 26, 2024, but the application was received by DOE via email on May 27, 2024.

and finds that a lessening of competition would likely result. In its assessment letter⁶ responding to DOE, the Department of Justice (DOJ) concluded that failure to grant ELF's application for a small business exemption for air cleaners would reduce competition to some degree. The basis for DOJ's determination is that, as a result of the standard, ELF will no longer be able to sell its air cleaner products through one of its main distribution channels, and therefore, customers will have one less competitive option through that channel. DOJ made this determination after reviewing ELF's application, as well as the technical analysis supporting the rule from which the exemption is sought. DOJ also reviewed the materials provided in response to the related request for comments, spoke with the company's representative, and reviewed other relevant, publicly available information.

IV. Final Decision and Order

In accordance with 10 CFR 430.55 and 10 CFR 430.56, DOE gives notice of the issuance of its decision and order granting ELF's application for a small business exemption from the Tier 1 standards for air cleaners, specified at 10 CFR 430.32(ee)(1), through December 30, 2025.

In evaluating this matter, DOE first reviewed financial information submitted by ELF as part of its application and found that the annual gross revenues from all its operations (including the manufacture and sale of covered products) did not exceed \$8,000,000 for the 12-month period preceding the date of the application, consistent with 42 U.S.C. 6295(t)(1). DOE then considered whether a failure to allow the exemption would result in a lessening of competition, consistent with 42 U.S.C. 6295(t)(2). After consultation with the Attorney General, DOE has determined that failure to grant a small business exemption would likely result in a lessening of competition. In response to Daikin's comment regarding a lessening in energy savings and potential cost advantage associated with granting the application, DOE notes compliance costs are typically a much larger percentage of revenue for small manufacturers than they are for larger manufacturers. An exemption under 42 U.S.C. 6295(t) allows small manufacturers to spread compliance

costs across a longer timeframe. A necessary result of extending the compliance timeframe for a small manufacturer is a reduction in energy savings and a potential cost advantage for the small manufacturer. But the impact is mitigated by the relatively short duration of the exemption period.

After careful consideration of all the material that was submitted by ELF, comments received in this process, and consultation with DOJ, in this matter, it is ORDERED that:

(1) ELF air cleaners are exempt from the applicable energy conservation standards set forth in 10 CFR 430.32(ee)(1).

(2) This Order is in effect through December 30, 2025. For air cleaners manufactured on and after December 31, 2025, ELF is required to comply with the applicable energy conservation standards specified in 10 CFR 430.32(ee)(2).

(3) To the extent that ELF seeks any additional small business exemption from the standards specified in 10 CFR 430.32(ee)(2), it would be required to submit a separate application regarding those standards in accordance with the requirements in 10 CFR part 430, subpart E.

(4) Any representations of energy efficiency that ELF chooses to make for its air cleaners must be made in accordance with the DOE test procedure specified in 10 CFR 430.23(hh)(4) and appendix FF, as well as the representations requirements specified in 10 CFR 429.68.

(5) This Order is issued on the condition that the statements and representations provided by ELF are valid. DOE may rescind or modify this Order at any time if it determines the factual basis underlying the application for small business exemption is incorrect. Likewise, ELF may request that DOE rescind the order if ELF discovers an error in the information provided to DOE as part of its application.

Signing Authority

This document of the Department of Energy was signed on April 21, 2025, by Louis Hrkman, Principal Deputy Assistant Secretary for Energy Efficiency and Renewable Energy, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE **Federal Register** Liaison Officer has been authorized to sign and submit the document in electronic format for

publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on April 24, 2025.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

DOJ's Letter (Received January 15, 2025)

Sent via email to ani.esenyan@hq.doe.gov and ami.grace-tardy@hq.doe.gov

RE: EL Foust Small Business Exemption

U.S. Department of Justice
Antitrust Division

*RFK Main Justice Building
950 Pennsylvania Avenue NW
Washington, DC 20530*

Ami Grace-Tardy
Assistant General Counsel for Legislation,
Regulation and Energy Efficiency
United States Department of Energy
1001 Independence Ave. SW
Washington, DC 20585

Dear Ms. Grace-Tardy:

I am responding to your October 8, 2024 letter seeking the views of the Attorney General about the potential impact on competition of E. L. Foust Co.'s application for a small-business exemption from energy conservation standards for conventional room air cleaners.

Your request was submitted in accordance with Section 6295(t) of the Energy Policy and Conservation Act of 1975 (ECPA), as amended. This Section provides that the Department of Energy may not grant a small-business exemption from an energy conservation standard until it has obtained the written views of the Attorney General concerning whether competition would be lessened if the Department of Energy does not grant an applicant's requested exemption. 42 U.S.C. 6295(t)(2). The Attorney General's responsibility for responding to requests from other departments about the effect of any action, program or practice upon the maintenance and preservation of competition has been delegated to the Assistant Attorney General for the Antitrust Division in 28 CFR 0.40(g). The Acting Assistant Attorney General for the Antitrust Division has authorized me, as the Policy Director for the Antitrust Division, to provide the Antitrust Division's views regarding the potential impact on competition of proposed energy conservation standards on her behalf.

In conducting its analysis, the Antitrust Division applies the standard set forth in 42 U.S.C. 6295(t)(2) and examines whether failure to grant a small-business exemption would likely result in a lessening of competition, for example, by limiting consumer choice, reducing the number of competitors, or limiting the capability or vigor with which they compete. A lessening of competition could result in higher prices, reduced innovation, and other harms to consumers, workers, and the American economy at large.

We have reviewed E. L. Foust Co.'s notice of application for a small business exemption

⁶ The text of the letter is provided at the end of this notice and is available in the docket for this petition at www.regulations.gov/docket/EERE-2024-BT-PET-0008.

contained in 89 FR 81059, October 7, 2024, as well as the technical analysis supporting the rule from which the exemption is sought. We have also reviewed the materials provided in response to the related request for comments, spoken with the company's representative, and reviewed other relevant, publicly available information. Based on this review, we have learned that one result of the energy conservation standards is that E. L. Foust Co. will no longer be able to sell its air cleaner products through one of its main distribution channels. Customers will therefore have one less competitive option through that channel, necessarily reducing competition to some degree. We have no reason, however, to believe the impact on competition would be more substantial than the small businesses' size would suggest.

Sincerely,

/s/David B. Lawrence,
Policy Director.

[FR Doc. 2025-07352 Filed 4-28-25; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Southwestern Power Administration

Integrated System—Rate Order No. SWPA-87

AGENCY: Southwestern Power Administration, DOE.

ACTION: Notice of rate order.

SUMMARY: The Administrator of the Southwestern Power Administration (Southwestern) has confirmed, approved, and placed into effect on an interim basis Rate Order No. SWPA-87 (Rate Order), which provides the following Integrated System rate schedules: *Wholesale Rates for Hydro Peaking Power* (P-23), *Wholesale Rates for Non-Federal Service* (NFS-23), and *Wholesale Rates for Excess Energy* (EE-23). These new rate schedules replace the existing power rates under Rate Schedules P-13B, NFTS-13A, and EE-13 which expire on September 30, 2025. Rate Schedules P-23, NFS-23, and EE-23 increase the annual wholesale power rate for the Integrated System by 22.8 percent.

DATES: The effective period for the rate schedules specified in Rate Order No. SWPA-87 is June 1, 2025, through September 30, 2027, pending confirmation and approval by the Federal Energy Regulatory Commission (FERC) on a final basis, or until superseded.

FOR FURTHER INFORMATION CONTACT: Ms. Fritha Ohlson, Senior Vice President and Chief Operating Officer, Office of Corporate Operations, (918) 595-6684, fritha.ohlson@swpa.gov.

SUPPLEMENTARY INFORMATION: On January 9, 2014, FERC confirmed and

approved Rate Schedules P-13, NFTS-13, and EE-13 under Rate Order No. SWPA-66 on a final basis through September 30, 2017. Subsequently, rate schedule NFTS-13 was renamed to NFTS-13A and rate schedule P-13 was renamed to P-13A and then later to P-13B, in each case with no revenue adjustment.¹ Additionally, all three rate schedules have been extended with no revenue adjustment.² Most recently, the Southwestern Administrator extended rate schedules P-13B, NFTS-13A, and EE-13, via Rate Order No. SWPA-85, through September 30, 2025.

Southwestern published a **Federal Register** notice (Proposed FRN) on November 12, 2024 (89 FR 88997), proposing to modify Integrated System rate schedules to meet the identified average annual revenue requirement of \$237,821,129, an increase of \$44,230,649 (22.8 percent). The Proposed FRN also initiated a 90-day public consultation and comment period and set the date of the public information and public comment forum to be December 18, 2024. No written comments were received and responses to outstanding comments or questions from the public information and public comment forum were posted on Southwestern's website.

Following review of the proposal, Rate Order No. SWPA-87, which provides rate schedules for the Integrated System is hereby confirmed, approved, and placed into effect on an interim basis. Southwestern will submit Rate Order No. SWPA-87 to FERC for confirmation and approval on a final basis.

United States of America

Department of Energy

Administrator, Southwestern Power Administration

In the matter of: Southwestern Power Administration Integrated System Rate Schedules Rate Order No. SWPA-87

Order Confirming, Approving, and Placing Increased Power Rate Schedules in Effect on an Interim Basis (4/23/2025)

Pursuant to Sections 301(b) and 302(a) of the Department of Energy Organization Act, 42 U.S.C. 7151(b) and 7152(a), the functions of the Secretary of the Interior and the Federal Power Commission under Section 5 of the

¹ Rate Order Nos. SWPA-71 (January 1, 2017), SWPA-73 (July 15, 2017), SWPA-80 (July 15, 2023).

² Rate Order Nos. SWPA-72 (September 13, 2017), SWPA-74 (September 22, 2019), SWPA-77 (August 30, 2021), SWPA-81 (September 20, 2023).

Flood Control Act of 1944, 16 U.S.C. 825s, relating to the Southwestern Power Administration (Southwestern), were transferred to and vested in the Secretary of Energy. By Delegation Order No. S1-DEL-RATES-2016, effective November 19, 2016, the Secretary of Energy delegated: (1) the authority to develop power and transmission rates to Southwestern's Administrator; (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary of Energy; and (3) the authority to confirm, approve, and place into effect on a final basis, or to remand or disapprove such rates, to the Federal Energy Regulatory Commission (FERC). By Delegation Order No. S1-DEL-S3-2024, effective August 30, 2024, the Secretary of Energy also delegated the authority to confirm, approve, and place such rates into effect on an interim basis to the Under Secretary for Infrastructure. By Redelegation Order No. S3-DEL-SWPA1-2023, effective April 10, 2023, the Under Secretary for Infrastructure redelegated the authority to confirm, approve, and place such rates into effect on an interim basis to the Southwestern Administrator.

Background

On September 30, 2013, in Rate Order No. SWPA-66, the Deputy Secretary of Energy placed into effect Southwestern's Integrated System rate schedules (P-13, NFTS-13, and EE-13) on an interim basis for the period October 1, 2013, to September 30, 2017. FERC confirmed and approved Southwestern's interim Integrated System rates on a final basis on January 9, 2014, for a period ending September 30, 2017.

Southwestern re-designated Integrated System rate schedule "NFTS-13" as "NFTS-13A" with no revenue adjustment to better align Southwestern's rate schedule with standard practices utilized by the Southwest Power Pool, Inc. In Rate Order No. SWPA-71, the Deputy Secretary of Energy placed into effect Southwestern's rate schedule NFTS-13A on an interim basis beginning January 1, 2017. FERC confirmed and approved NFTS-13A on a final basis on March 9, 2017.

On September 13, 2017, in Rate Order No. SWPA-72, the Deputy Secretary of Energy extended all of Southwestern's Integrated System rate schedules (P-13, NTFs-13A, and EE-13) for two years, for the period of October 1, 2017, through September 30, 2019.

Southwestern re-designated Integrated System rate schedule "P-13" as "P-13A" with no revenue adjustment to