



This document is scheduled to be published in the Federal Register on 11/03/2011 and available online at

<http://federalregister.gov/a/2011-28501>.

[6450-01-P]

## DEPARTMENT OF ENERGY

### Office of Energy Efficiency and Renewable Energy

[Case No. VHE-001]

### Publication of the Petition for Waiver from Empire Comfort Systems from the Department of Energy Vented Home Heating Equipment Test Procedure

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

**ACTION:** Notice of Petition for Waiver and Request for Public Comments.

**SUMMARY:** This notice announces receipt of and publishes the Empire Comfort Systems Inc. (Empire) petition for waiver (hereafter, “petition”) from the U.S. Department of Energy (DOE) test procedure for determining the energy consumption of vented home heating equipment. The waiver request pertains to certain basic models of Empire’s condensing type direct heaters. In its petition, Empire provides an alternate test procedure, ANSI/ASHRAE Standard 103-1993, “Method of Testing for AFUE of Residential Central Furnaces and Boilers.” The alternate procedure omits those sections of ANSI/ASHRAE 103-1993 that do not apply to condensing type direct heaters. DOE solicits comments, data, and information concerning Empire’s petition and the suggested alternate test procedure.

**DATES:** DOE will accept comments, data, and information with respect to the Empire Petition until, but no later than **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** You may submit comments, identified by case number “VHE-001,” by any of the following methods:

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the instructions for submitting comments.
- **E-mail:** [AS\\_Waiver\\_Requests@ee.doe.gov](mailto:AS_Waiver_Requests@ee.doe.gov) Include the case number [Case No. VHE-001] in the subject line of the message.
- **Mail:** Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE-2J/1000 Independence Avenue, SW, Washington, DC 20585-0121. Telephone: (202) 586-2945. Please submit one signed original paper copy.
- **Hand Delivery/Courier:** Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, 950 L’Enfant Plaza SW, Suite 600, Washington, DC 20024. Please submit one signed original paper copy.

**Docket:** For access to the docket to review the background documents relevant to this matter, you may visit the U.S. Department of Energy, 950 L’Enfant Plaza SW, (Resource Room of the Building Technologies Program), Washington, DC, 20024; (202) 586-2945, between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays. Available documents include the following items: (1) this notice; (2) public comments received; (3) the petition for waiver; and (4) prior DOE rulemakings regarding similar refrigerator-freezers. Please call Ms. Brenda

Edwards at the above telephone number for additional information regarding visiting the Resource Room.

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

Ms. Elizabeth Kohl, U.S. Department of Energy, Office of the General Counsel, Mail Stop GC-71, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585-0103. Telephone: (202) 586-7796. E-mail: [Elizabeth.Kohl@hq.doe.gov](mailto:Elizabeth.Kohl@hq.doe.gov).

## **SUPPLEMENTARY INFORMATION:**

### **I. Background and Authority**

Title III, Part B of the Energy Policy and Conservation Act of 1975 (EPCA), Pub. L. 94-163 (42 U.S.C. 6291-6309, as codified, established the Energy Conservation Program for Consumer Products Other Than Automobiles, a program covering most major household appliances, which includes the vented home heating equipment that is the focus of this notice.<sup>1</sup> Part B includes definitions, test procedures, labeling provisions, energy conservation standards, and the authority to require information and reports from manufacturers. Further, Part B authorizes the Secretary of Energy to prescribe test procedures that are reasonably designed to produce results which measure the energy efficiency, energy use, or estimated annual operating

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<sup>1</sup> For editorial reasons, upon codification in the U.S. Code, Part B was re-designated Part A.

costs of a covered product, and that are not unduly burdensome to conduct. (42 U.S.C. 6293(b)(3)) The test procedure for vented home heating equipment is contained in 10 CFR part 430, subpart B, appendix O.

DOE's regulations for covered products contain provisions allowing a person to seek a waiver for a particular basic model from the test procedure requirements for covered consumer products when (1) the petitioner's basic model for which the petition for waiver was submitted contains one or more design characteristics that prevent testing according to the prescribed test procedure, or (2) when prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption characteristics as to provide materially inaccurate comparative data. 10 CFR 430.27(a)(1). Petitioners must include in their petition any alternate test procedures known to the petitioner to evaluate the basic model in a manner representative of its energy consumption characteristics. 10 CFR 430.27(b)(1)(iii).

The Assistant Secretary for Energy Efficiency and Renewable Energy (the Assistant Secretary) may grant a waiver subject to conditions, including adherence to alternate test procedures. 10 CFR 430.27(l). Waivers remain in effect pursuant to the provisions of 10 CFR 430.27(m).

## **II. Petition for Waiver of Test Procedure**

On July 21, 2011, Empire filed a petition for waiver for new condensing type direct heater models from the test procedure applicable to vented home heating equipment set forth in 10 CFR Part 430, Subpart B, Appendix O. Empire is designing direct heaters that incorporate

condensing features. In its petition, Empire seeks a waiver from the existing DOE test procedure applicable to its Mantis vented gas fireplace systems under 10 CFR Part 430 because the existing test procedure does not account for condensing type heating equipment. Therefore, Empire has asked to use an alternate test procedure, ANSI/ASHRAE Standard 103-1993, "Method of Testing for AFUE of Residential Central Furnaces and Boilers," omitting those sections that cover air temperature rise and static pressure, which cannot be applied to condensing type heating equipment. Empire did not request an interim waiver pursuant to 10 CFR 430.27(a)(2).

### **III. Summary and Request for Comments**

Through today's notice, DOE announces receipt of Empire's petition for waiver from the DOE test procedure. DOE publishes Empire's petition for waiver pursuant to 10 CFR 430.27(b)(1)(iv). The petition includes a suggested alternate test procedure and calculation methodology to determine the energy consumption of Empire's specified condensing direct heaters. DOE is considering including this alternate procedure in its subsequent Decision and Order.

DOE solicits comments from interested parties on all aspects of the petition, including the suggested alternate test procedure and calculation methodology. Pursuant to 10 CFR 430.27(b)(1)(iv), any person submitting written comments to DOE must also send a copy of such comments to the petitioner. The contact information for the petitioner is: Kenneth J. Belding, Vice President – Delivery Support Services, Empire Comfort Systems, Inc., 918 Freeburg Avenue, Belleville, Illinois 62220-2623. All submissions received must include the agency name and case number for this proceeding. Submit electronic comments in WordPerfect,

Microsoft Word, Portable Document Format (PDF), or text (American Standard Code for Information Interchange (ASCII)) file format and avoid the use of special characters or any form of encryption. Wherever possible, include the electronic signature of the author. DOE does not accept telefacsimiles (faxes).

According to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit two copies to DOE: one copy of the document including all the information believed to be confidential, and one copy of the document with the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

Issued in Washington, DC, on October 27, 2011.

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Kathleen B. Hogan  
Deputy Assistant Secretary for Energy Efficiency  
Energy Efficiency and Renewable Energy

July 21, 2011  
(revised August 25, 2011)

**U.S. DEPARTMENT OF ENERGY**

Building Technologies Program  
Test Procedure Waiver  
1000 Independence Avenue, SW  
Mail Stop EE-2J  
Washington, DC 20585-0121

Gentlemen:

This is a request for a waiver to the current, prescribed method of testing efficiency for the models listed on Certificate of Compliance 1764957 (111946) from CSA International (enclosed).

The current D.O.E. test procedures, found in the Federal Register Part IV10 CFR430, notice dated May 1997, do not address condensing type heating equipment. Mantis is a condensing type direct heater, vented with PVC.

The Mantis was tested for efficiency using portions of the ANSI/ASHRAE Standard 103-1993, Method of Testing for AFUE of Residential Central Furnaces and Boilers. This standard was used as a guideline for test procedures and calculations through steady state, including condensate collection, cool-down, heat-up and cyclic tests. Sections of the ANSI/ASHRAE Standard 103-1993 covering air temperature rise and static pressure cannot be applied to this type of equipment and were omitted.

Enclosed you will find an e-mail correspondence from Phil Gauthier of the AHRI Direct Heating Certification Program suggesting we request a waiver with associated pertinent information.

Also enclosed, for your review, is our request for test with Intertek and subsequent test results. I have also included our correspondence with Phil Gauthier of AHRI recommending we request this waiver.

continued...

**U.S. DEPARTMENT OF ENERGY**

Building Technologies Program

Test Procedure Waiver

August 25, 2011

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As requested, in Word format, please see below those sections of ASHRAE 103-1993 that do not apply to Mantis testing.

4. 4.1.2, 4.2.2, 4.2.3, 4.3.1, 4.4.3, 4.5.1, 4.5.2.1, 4.5.2.2, 4.5.2.4, 4.6.1, 4.7.1, 4.7.2, 4.7.3, 4.8.1, 4.8.2, 4.8.3, 4.9.1, 4.9.2, 4.9.3, 4.10.2, 4.11.2, 4.11.3
5. All
6. 6.1, 6.10.1, 6.10.3, 6.11.2
7. 7.1, 7.2, 7.3, 7.4, 7.5, 7.7
8. 8.1, 8.2.1, 8.2.1.2, 8.2.1.4, 8.2.1.5.1, 8.2.1.5.2, 8.2.1.5.3, 8.2.2.1, 8.2.2.3, 8.2.2.4, 8.2.3, 8.3, 8.4.1.2, 8.4.2, 8.6, 8.8
9. 9.1.1.2, 9.1.1.3, 9.1.2.2.2, 9.1.2.3.2, 9.1.2.3.3, 9.3.1.3, 9.1.4, 9.3, 9.4

We appreciate your consideration in this matter.

Respectfully,

EMPIRE COMFORT SYSTEMS, INC.

Kenneth J. Belding  
Vice President – Delivery Support Services

KJB:crb  
Enc.

[FR Doc. 2011-28501 Filed 11/02/2011 at 8:45 am; Publication Date: 11/03/2011]