



[6450-01-P]

DEPARTMENT OF ENERGY

[Case Number 2017-009; EERE-2017-BT-WAV-0040]

Energy Conservation Program: Decision and Order Granting a Waiver to Jamison Door Company from the Department of Energy Walk-in Cooler and Walk-in Freezer Doors Test Procedure

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”) gives notice of a Decision and Order (Case Number 2017-009) that grants to Jamison Door Company (“Jamison”) a waiver from specified portions of the DOE test procedure for determining the energy consumption of walk-in cooler and walk-in freezer doors (“walk-in door”) basic models. Under the Decision and Order, Jamison is required to test and rate specified basic models of its walk-in doors in accordance with the alternate test procedure specified in the Decision and Order.

DATES: The Decision and Order is effective on [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. The Decision and Order will terminate upon the compliance date of any future amendment to the test procedure for walk-in doors located at 10 CFR part 431, subpart R, appendix A that addresses the issues presented in this waiver. At such time, Jamison must use the relevant test procedure for this equipment for any testing to demonstrate compliance with the applicable standards, and any other representations of energy use.

FOR FURTHER INFORMATION CONTACT:

Ms. Lucy deButts, 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. E-mail: *AS_Waiver_Requests@ee.doe.gov*.

Mr. Michael Kido, U.S. Department of Energy, Office of the General Counsel, Mail Stop GC-33, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585-0103. Telephone: (202) 586-8145. Email: *Michael.kido@hq.doe.gov*.

SUPPLEMENTARY INFORMATION:

In accordance with Title 10 of the Code of Federal Regulations (10 CFR 431.401(f)(2)), DOE gives notice of the issuance of its Decision and Order as set forth below. The Decision and Order grants Jamison with a waiver from the applicable test procedure in 10 CFR part 431, subpart R, appendix A for specified basic models of walk-in doors, provided that Jamison tests and rates such equipment using the alternate test procedure specified in the Decision and Order. Jamison's representations concerning the energy consumption of the specified basic models must be based on testing according to the provisions and restrictions in the alternate test procedure set forth in the Decision and Order, and the representations must fairly disclose the test results. Distributors, retailers, and private labelers are held to the same requirements when making representations regarding the energy consumption of this equipment. (42 U.S.C. 6314(d))

Consistent with 10 CFR 431.401(j), not later than **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**, any manufacturer currently distributing in commerce in the United States equipment employing a technology or

characteristic that results in the same need for a waiver from the applicable test procedure must submit a petition for waiver. Manufacturers not currently distributing such equipment in commerce in the United States must petition for and be granted a waiver prior to the distribution in commerce of that equipment in the United States. Manufacturers may also submit a request for interim waiver pursuant to the requirements of 10 CFR 431.401.

Signed in Washington, DC, on October 15, 2018.

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

Case # 2017-009
Decision and Order

I. Background and Authority

The Energy Policy and Conservation Act of 1975 (“EPCA”),¹ Public Law 94-163 (42 U.S.C. 6291–6317, as codified), among other things, authorizes the U.S. Department of Energy (“DOE”) to regulate the energy efficiency of a number of consumer products and industrial equipment. Title III, Part C² of EPCA established the Energy Conservation Program for Certain Industrial Equipment, which sets forth a variety of provisions designed to improve energy efficiency for certain types of industrial equipment. This equipment includes walk-in cooler and walk-in freezer doors (“walk-in doors”), the focus of this document. (42 U.S.C. 6311(1)(G)).

Under EPCA, DOE’s energy conservation program consists essentially of four parts: (1) testing, (2) labeling, (3) Federal energy conservation standards, and (4) certification and enforcement procedures. Relevant provisions of EPCA include definitions (42 U.S.C. 6311), energy conservation standards (42 U.S.C. 6313), test procedures (42 U.S.C. 6314), labeling provisions (42 U.S.C. 6315), and the authority to require information and reports from manufacturers (42 U.S.C. 6316).

¹ All references to EPCA in this document refer to the statute as amended through the EPS Improvement Act of 2017, Public Law 115-115 (January 12, 2018).

² For editorial reasons, upon codification in the U.S. Code, Part C was redesignated as Part A-1.

The Federal testing requirements consist of test procedures that manufacturers of covered equipment must use as the basis for: (1) certifying to DOE that their equipment complies with the applicable energy conservation standards adopted pursuant to EPCA (42 U.S.C. 6316(a); 42 U.S.C. 6295(s)), and (2) making representations about the efficiency of that equipment (42 U.S.C. 6314(d)). Similarly, DOE must use these test procedures to determine whether the equipment complies with relevant standards promulgated under EPCA. (42 U.S.C. 6316(a); 42 U.S.C. 6295(s))

Under 42 U.S.C. 6314, EPCA sets forth the criteria and procedures DOE is required to follow when prescribing or amending test procedures for covered equipment. EPCA requires that any test procedures prescribed or amended under this section must be reasonably designed to produce test results which reflect energy efficiency, energy use or estimated annual operating cost of a covered equipment during a representative average use cycle and requires that test procedures not be unduly burdensome to conduct. (42 U.S.C. 6314(a)(2)) The test procedure for walk-in doors is contained in the Code of Federal Regulations (“CFR”) at 10 CFR part 431, subpart R, appendix A, *Uniform Test Method for the Measurement of Energy Consumption of the Components of Envelopes of Walk-In Coolers and Walk-In Freezers* (“Appendix A”).

Under 10 CFR 431.401, any interested person may submit a petition for waiver from DOE’s test procedure requirements. DOE will grant a waiver from the test procedure requirements if DOE determines either that the basic model for which the waiver was requested contains a design characteristic that prevents testing of the basic model according to the prescribed test procedures, or that the prescribed test procedures evaluate the basic model in a

manner so unrepresentative of its true energy consumption characteristics as to provide materially inaccurate comparative data. 10 CFR 431.401(a)(1). DOE may grant the waiver subject to conditions, including adherence to alternate test procedures. 10 CFR 431.401(f)(2).

II. Jamison’s Petition for Waiver: Assertions and Determinations

By letter dated July 26, 2017, Jamison submitted a petition for waiver and a petition for interim waiver from the test procedure applicable to walk-in doors set forth in 10 CFR part 431, subpart R, appendix A.³ Appendix A accounts for the power consumption of all electrical components associated with each door and discounts the power consumption of electrical components based on their operating time by an assigned percent time off (“PTO”) value. 10 CFR part 431, subpart R, appendix A, section 4.5.2. Section 4.5.2 of appendix A specifies a PTO of 25% for “other electricity-consuming devices” (*i.e.*, electrical devices other than lighting or anti-sweat heaters) that have demand-based controls, and a PTO of 0% for other electricity-consuming devices without a demand-based control. *Id.* The walk-in door basic models specified by Jamison in its petition⁴ are designed with door motors, which are considered “other electricity-consuming devices” with demand-based controls. In its petition for waiver, Jamison suggested applying a PTO value of 93.5% to the door motors in the specified basic models, which move doors at a speed of at least 12 inches per second (“in/s”) or faster. Jamison asserted that the current PTO value overestimates the time that the specified motorized door models are in

³ Jamison's petition for waiver and petition for interim waiver can be found in the regulatory docket at <https://www.regulations.gov/document?D=EERE-2017-BT-WAV-0040-0002>.

⁴ Due to the lengthy list of affected walk-in door basic models in Jamison's July 26, 2017 petition, DOE is making the complete list publicly available in the relevant regulatory docket. The specific basic models identified in Appendix I of the petition can be found in the docket at <https://www.regulations.gov/document?D=EERE-2017-BT-WAV-0040-0002>.

operation, and stated that a PTO value of 25% would imply that the door motor is running 18 hours per day. Jamison stated that this estimated value of energy use is unrealistic and unrepresentative of the actual energy use of its equipment. Jamison further stated that, based on the typical door motor use pattern of the specified walk-in doors, its proposed PTO value of 93.5% would more accurately reflect the specified basic models' door motor energy consumption.

On June 19, 2018, DOE published a notice that announced its receipt of the petition for waiver and granted Jamison an interim waiver. 83 FR 28422 (“Notice of Petition for Waiver”). In the Notice of Petition for Waiver, DOE presented Jamison’s claim that the results from testing the specified basic models according to Appendix A are unrealistic and unrepresentative of actual energy usage because of the assigned PTO value. DOE also summarized Jamison’s requested alternate test procedure, which would require testing the specified basic models according to Appendix A, except that the PTO value for door motors would be modified from 25% to 93.5% for freight and passage doors.

As explained in the Notice of Petition for Waiver, DOE analyzed the technical performance data provided by Jamison, and noted that Jamison’s petition sought to apply the same PTO value to its specified basic models that are 24 to 288 inches (i.e. 2 to 24 feet) wide and have motors driven at a minimum speed of 12 in/s. Even when assuming the most energy consumptive scenario would apply, DOE concluded that the proposed 93.5% PTO for the specified basic models was appropriate and agreed with Jamison that for the door motors used in

those basic models, the proposed PTO was more representative of actual energy use than the currently required PTO value of 25%.

In the Notice of Petition for Waiver, DOE also solicited comments from interested parties on all aspects of the petition and the specified alternate test procedure. In response, DOE received one comment from Hussmann Corporation (“Hussmann”).⁵ Hussmann supported Jamison’s request and methodology for an alternate test procedure to account for an electrical door opening device used with a demand-based controller. It asserted that the analysis arriving at a 93.5% PTO value is sound for the product and use specified. Hussmann added that “door products used in other applications,” such as control devices that remove moisture in areas of high humidity, may also warrant variations in the PTO.

DOE notes that a Decision and Order applies only to those basic models specified in the Order. The PTO values specified by the waiver methodology are appropriate for the basic models that are the subject of the petition. Jamison requested PTO values based on the characteristics of the basic models specified in its petition. Jamison’s petition for waiver did not require DOE to consider or evaluate PTO values for applications other than the door motors in the specified basic models. Accordingly, DOE is treating Hussmann’s comments on this point to apply more generally than to the specific waiver request at issue. DOE will consider this issue in greater detail if it should decide to amend the walk-in door test procedure in the future.

⁵ The Hussmann Corporation comment can be found in the docket at: <https://www.regulations.gov/document?D=EERE-2017-BT-WAV-0040>.

For the reasons explained here and the Notice of Petition for Waiver, DOE understands that absent a waiver, the basic models identified by Jamison in its petition cannot be tested and rated for energy consumption on a basis representative of their true energy consumption characteristics. DOE has reviewed the recommended procedure suggested by Jamison and concludes that it will allow for the accurate measurement of the energy use of the equipment, while alleviating the testing problems associated with Jamison's implementation of DOE's applicable walk-in door test procedure for the specified basic models. Thus, DOE is requiring that Jamison test and rate the specified walk-in doors basic models according to the alternate test procedure specified in this Decision and Order, which is identical to the procedure provided in the interim waiver.

This Decision and Order applies only to the basic models listed and does not extend to any other basic models. DOE evaluates and grants waivers for only those basic models specifically set out in the petition, not future models that may be manufactured by the petitioner.

Jamison may request that the scope of this waiver be extended to include additional basic models that employ the same technology as those listed in this waiver. 10 CFR 431.401(g). Jamison may also submit another petition for waiver from the test procedure for additional basic models that employ a different technology and meet the criteria for test procedure waivers. 10 CFR 431.401(a)(1).

DOE notes that it may modify or rescind the waiver at any time upon DOE's determination that the factual basis underlying the petition for waiver is incorrect, or upon a

determination that the results from the alternate test procedure are unrepresentative of the basic models' true energy consumption characteristics. 10 CFR 431.401(k)(1). Likewise, Jamison may request that DOE rescind or modify the waiver if the company discovers an error in the information provided to DOE as part of its petition, determines that the waiver is no longer needed, or for other appropriate reasons. 10 CFR 431.401(k)(2). Further, the waiver is conditioned upon the validity of the door motor performance characteristics, statements, representations, and documentation provided by Jamison.

III. Order

After careful consideration of all the material that was submitted by Jamison in this matter and the comment received, it is **ORDERED** that:

(1) Jamison must, as of the date of publication of this Order in the *Federal Register*, test and rate the walk-in doors basic models listed in Appendix I of its July 26, 2017 petition as provided in Docket Number EERE-2017-BT-WAV-0040⁶ with the alternate test procedure as set forth in paragraph (2).

(2) The alternate test procedure for the Jamison basic models referenced in paragraph (1) of this Order is the test procedure for walk-in doors prescribed by DOE at 10 CFR part 431, subpart R,

⁶ Available at:

<https://www.regulations.gov/docketBrowser?rpp=25&so=DESC&sb=commentDueDate&po=0&D=EERE-2017-BT-WAV-0040>.

appendix A, except that the PTO value specified in section 4.5.2 “Direct Energy Consumption of Electrical Components of Non-Display Doors” shall be 93.5% for door motors. All other requirements of 10 CFR part 431, subpart R, appendix A and DOE’s regulations remain applicable.

(3) *Representations.* Jamison may not make representations about the energy use of the basic models referenced in paragraph (1) of this Order for compliance, marketing, or other purposes unless the basic model has been tested in accordance with the provisions set forth above and such representations fairly disclose the results of such testing in accordance with 10 CFR part 431, subpart R, appendix A and 10 CFR part 429, subpart B, as specified in this Order.

(4) This waiver shall remain in effect according to the provisions of 10 CFR 431.401.

(5) This waiver is issued on the condition that the statements, representations, and documentation provided by Jamison are valid. If Jamison makes any modifications to the controls or configurations of these basic models, the waiver will no longer be valid and Jamison will either be required to use the current Federal test method or submit a new application for a test procedure waiver. DOE may revoke or modify this waiver at any time if it determines the factual basis underlying the petition for waiver is incorrect, or the results from the alternate test procedure are unrepresentative of the basic models’ true energy consumption characteristics.

10 CFR 431.401(k)(1). Likewise, Jamison may request that DOE rescind or modify the waiver if

Jamison discovers an error in the information provided to DOE as part of its petition, determines that the waiver is no longer needed, or for other appropriate reasons. 10 CFR 431.401(k)(2).

(6) Granting of this waiver does not release Jamison from the certification requirements set forth at 10 CFR part 429.

Signed in Washington, DC, on October 15, 2018.

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

[FR Doc. 2018-23096 Filed: 10/22/2018 8:45 am; Publication Date: 10/23/2018]