

SUPPLEMENTARY INFORMATION: 35 U.S.C. 309(c) provides the Department with authority to grant exclusive or partially exclusive licenses in Department-owned inventions, where a determination can be made, among other things, that the desired practical application of the invention has not been achieved, or is not likely expeditiously to be achieved, under a nonexclusive license. The statute and implementing regulations (37 C.F.R. 404) require that the necessary determinations be made after public notice and opportunity for filing written objections.

PLD Advanced Automation Systems, Inc., of Rockledge, Florida, has applied for an exclusive license to practice the invention embodied in U.S. Patent No. 4,942,339, and has a plan for commercialization of the invention.

The proposed license will be exclusive as defined above, subject to a license and other rights retained by the U.S. Government, and subject to a negotiated royalty. The Department will review all timely written responses to this notice, and will grant the license if, after expiration of the 60-day notice period, and after consideration of written responses to this notice, a determination is made, in accordance with 35 U.S.C. 209(c), that the license grant is in the public interest.

Issued in Washington, D.C., on April 16, 1996.

Agnes P. Dover,

Deputy General Counsel for Technology Transfer and Procurement.

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Office of Energy Efficiency and Renewable Energy

[Case No. DH-005]

Energy Conservation Program for Consumer Products: Decision and Order Granting a Waiver From the Vented Home Heating Equipment Test Procedure to Superior Fireplace Company

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

ACTION: Decision and order.

SUMMARY: Notice is given of the Decision and Order (Case No. DH-005) granting a Waiver to Superior Fireplace Company (Superior) from the existing Department of Energy (DOE or Department) test procedure for vented home heating equipment. The Department is granting Superior's Petition for Waiver regarding pilot light

energy consumption for manually controlled heaters in the calculation of Annual Fuel Utilization Efficiency (AFUE), and calculation procedure for weighted average steady state efficiency for manually controlled heaters with various input rates for its models GI-3821, DSH-36T, DVH-33R, DVH-33T, DVA-33R, and DVA-33T manually controlled vented heaters.

FOR FURTHER INFORMATION CONTACT:

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Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Mail Station GC-72, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585-0103, (202) 586-9507.

SUPPLEMENTARY INFORMATION: In accordance with Title 10 CFR 430.27(j), notice is hereby given of the issuance of the Decision and Order as set out below. In the Decision and Order, Superior has been granted a Waiver for its models GI-3821, DSH-36T, DVH-33R, DVH-33T, DVA-33R, and DVA-33T manually controlled vented heaters, permitting the company to use an alternate test method in determining AFUE.

Issued in Washington, DC, on April 4, 1996.

Christine A. Ervin,

Assistant Secretary, Energy Efficiency and Renewable Energy.

Decision and Order, Department of Energy, Office of Energy Efficiency and Renewable Energy

In the Matter of: Superior Fireplace Company (Case No. DH-005)

Background

The Energy Conservation Program for Consumer Products (other than automobiles) was established pursuant to the Energy Policy and Conservation Act, Public Law 94-163, 89 Stat. 917, as amended (EPCA), which requires DOE to prescribe standardized test procedures to measure the energy consumption of certain consumer products, including vented home heating equipment. The intent of the test procedures is to provide a comparable measure of energy consumption that will assist consumers in making purchasing decisions. These test procedures appear at Title 10 CFR Part 430, Subpart B.

The Department amended the prescribed test procedures by adding

Title 10 CFR 430.27 to create a waiver process. 45 FR 64108, September 26, 1980. Thereafter, DOE further amended its appliance test procedure waiver process to allow the Assistant Secretary for Energy Efficiency and Renewable Energy (Assistant Secretary) to grant an Interim Waiver from test procedure requirements to manufacturers that have petitioned DOE for a waiver of such prescribed test procedures. 51 FR 42823, November 26, 1986.

The waiver process allows the Assistant Secretary to waive temporarily test procedures for a particular basic model when a petitioner shows that the basic model contains one or more design characteristics which prevent testing according to the prescribed test procedures or when the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption as to provide materially inaccurate comparative data. Waivers generally remain in effect until final test procedure amendments become effective, resolving the problem that is the subject of the waiver.

Superior filed a "Petition for Waiver" dated August 30, 1995, a second letter, dated November 30, 1995, which requested modification to the minimum fuel input rate of the vented heaters previously submitted for consideration, and a third letter dated January 12, 1996, which provided a list of companies that make similar products, confidential product performance data, and amending the list of models submitted for consideration in the August 30, 1995, Waiver request, in accordance with section 430.27 of Title 10 CFR Part 430. The Department published in the Federal Register on February 14, 1996, Superior's Petition and solicited comments, data and information respecting the Petition. 61 FR 5755, February 14, 1996. Superior also filed an "Application for Interim Waiver" under section 430.27(b)(2), which DOE granted on February 1, 1996. 61 FR 5755, February 14, 1996.

No comments were received concerning either the "Petition for Waiver" or the "Interim Waiver." The Department consulted with The Federal Trade Commission (FTC) concerning the Superior Petition. The FTC did not have any objections to the issuance of the waiver to Superior.

Assertions and Determinations

Superior's Petition seeks a waiver from the DOE test provisions regarding (a) pilot light energy consumption for manually controlled heaters in the calculation of AFUE and (b) calculation procedure for weighted average steady

state efficiency for manually controlled heaters with various input rates. The DOE test provisions in section 3.5 of Title 10 CFR Part 430, Subpart B, Appendix O requires measurement of energy input rate to the pilot light (Q_p) with an error no greater than 3 percent for vented heaters, and use of this data in section 4.2.6 for the calculation of AFUE using the formula: $AFUE = [4400\eta_{ss}\eta_u Q_{in-max}] / [4400\eta_{ss}Q_{in-max} + 2.5(4600)\eta_u Q_p]$. Superior requests the allowance to delete the $[2.5(4600)\eta_u Q_p]$ term in the denominator in the calculation of AFUE when testing its models GI-3821, DSH-36T, DVH-33R, DVH-33T, DVA-33R, and DVA-33T manually controlled vented heaters. Superior states that its models GI-3821, DSH-36T, DVH-33R, DVH-33T, DVA-33R, and DVA-33T manually controlled vented heaters are designed with a transient pilot which is to be turned off by the user when the heater is not in use. The control knob on the combination gas control in these heaters has three positions: "OFF," "PILOT" and "ON". Gas flow to the pilot is obtained by rotating the control knob from "OFF" to "PILOT," depressing the knob, holding in, pressing the piezo igniter. When the pilot heats a thermocouple element, sufficient voltage is supplied to the combination gas control for the pilot to remain lit when the knob is released and turned to the "ON" position. The main burner can then be ignited by moving an ON/OFF switch to the "ON" position. Instructions to instruct users to turn the gas control knob to the "OFF" position when the heater is not in use, which automatically turns off the pilot, are provided in the User's Instruction Manual and on a label adjacent to the gas control knob. If the manufacturer's instructions are observed by the user, the pilot light will not be left on. This will result in a lower energy consumption, and in turn a higher efficiency than calculated by the current DOE test procedure. Since the current DOE test procedure does not address this issue, Superior asks that the Waiver be granted.

Based on DOE's review of how Superior's models GI-3821, DSH-36T, DVH-33R, DVH-33T, DVA-33R, and DVA-33T manually controlled vented heaters operate and the fact that if the manufacturer's instructions are followed, the pilot light will not be left on, DOE grants Superior a Petition for Waiver to exclude the assumed pilot light energy input term in the calculation of AFUE.

This decision is subject to the condition that the heaters shall have an easily read label near the gas control

knob instructing the user to turn the valve to the off-position when the heaters are not in use be maintained.

Superior also seeks a Waiver from the DOE test provisions in section 3.1.1 of Title 10 CFR Part 430, Subpart B, Appendix O that require steady state efficiency for manually controlled heaters with various flow rates to be determined at a fuel input rate that is within ± 5 percent of 50 percent of the maximum fuel input rate, and the use of this data in section 4.2.4 to determine the weighted average steady state efficiency in the calculation of AFUE.

Superior states that its manually controlled heaters utilize a gas control with a variable pressure regulator control that allows the user to select various fuel input rates by varying the range of pressures of the heaters, and request that it be allowed to determine steady state efficiency and weighted average steady state efficiency in the calculation of AFUE at a minimum fuel input rate of no greater than two-thirds of the maximum fuel input rate instead of the specified ± 5 percent of 50 percent of the maximum fuel input rate. Also, previous Petitions for Waiver to exclude the pilot light energy input term in the calculation of AFUE for home heating equipment with a manual transient pilot control and allowance to determine steady state efficiency and weighted average steady state efficiency used in the calculation of AFUE at a minimum fuel input rate of 65.3 percent of the maximum fuel input rate have been granted by DOE to Appalachian Stove and Fabricators, Inc., 56 FR 51711, October 15, 1991, and Valor Inc., 56 FR 51714, October 15, 1991.

Based on DOE having granted similar waivers in the past to heaters utilizing a variable pressure regulator control that allows a user to set various fuel input rates, DOE agrees that a waiver should be granted to allow the determination of steady state efficiency and weighted average steady state efficiency used in the calculation of AFUE at a minimum fuel input rate of no greater than two-thirds of the maximum fuel input rate instead of the specified ± 5 percent of 50 percent of the maximum fuel input rate for Superior models GI-3821, DSH-36T, DVH-33R, DVH-33T, DVA-33R, and DVA-33T manually controlled vented heaters.

It is therefore, ordered that:

(1) The "Petition for Waiver" filed by Superior Fireplace Company (Case No. DH-005) is hereby granted as set forth in paragraph (2) below, subject to the provisions of paragraphs (3), (4), and (5).

(2) Notwithstanding any contrary provisions of Appendix O of Title 10 CFR Part 430, Subpart B, Superior

Fireplace Company shall be permitted to test its models GI-3821, DSH-36T, DVH-33R, DVH-33T, DVA-33R, and DVA-33T manually controlled vented heaters on the basis of the test procedure specified in Title 10 CFR Part 430, with modifications set forth below:

(i) Delete paragraph 3.5 of Appendix O.

(ii) The last paragraph of 3.1.1 of Appendix O is revised to read as follows:

3.1.1 (a) For manually controlled gas fueled vented heaters, with various input rates determine the steady-state efficiency at:

(1) A fuel input rate within ± 5 percent of 50 percent of the maximum fuel input rate or,

(2) The minimum fuel input rate if the design of the heater is such that ± 5 percent of 50 percent of the maximum fuel input rate can not be set, provided this minimum input rate is no greater than two-thirds of the maximum input rate of the heater.

(b) If the heater is designed to use a control that precludes operation at other than maximum output (single firing rate) determine the steady state efficiency at the maximum input rate only.

(iii) Delete paragraph 4.2.4 of Appendix O and replace with the following paragraph:

4.2.4 Weighted Average Steady-State Efficiency. (a) For manually controlled heaters with various input rates, the weighted average steady-state efficiency (η_{ss-wr}) is:

(1) At ± 5 percent of 50 percent of the maximum fuel input rate as measured in either section 3.1.1 to this appendix for manually controlled gas vented heaters or section 3.1.2 to this appendix for manually controlled oil vented heaters, or

(2) At the minimum fuel input rate as measured in either section 3.1.1 to this appendix for manually controlled gas vented heaters or section 3.1.2 to this appendix for manually controlled oil vented heaters if the design of the heater is such that ± 5 percent of 50 percent of the maximum fuel input rate can not be set, provided the tested input rate is no greater than two-thirds of maximum input rate of the heater.

(b) For manually controlled heater with one single firing rate, the weighted average steady-state efficiency is the steady-state efficiency measured at the single firing rate.

(iv) Delete paragraph 4.2.6 of Appendix O and replace with the following paragraph:

4.2.6 Annual Fuel Utilization Efficiency. For manually controlled vented heaters, calculate the Annual

Fuel Utilization Efficiency (AFUE) as a percent and defined as:

$$AFUE = \eta_u$$

where:

η_u = as defined in section 4.2.5 of this appendix.

(v) With the exception of the modification set forth above, Superior Fireplace Company shall comply in all respects with the test procedures specified in Appendix O of Title 10 CFR Part 430, Subpart B.

(3) The Waiver shall remain in effect from the date of issuance of this Order until DOE prescribes final test procedures appropriate to models GI-3821, DSH-36T, DVH-33R, DVH-33T, DVA-33R, and DVA-33T manually controlled vented heaters manufactured by Superior Fireplace Company.

(4) This Waiver is based upon the presumed validity of statements, allegations, and documentary materials submitted by the petitioner. This Waiver may be revoked or modified at any time upon a determination that a factual basis underlying the Petition is incorrect.

(5) Effective April 14, 1996, this Waiver supersedes the Interim Waiver granted Superior Fireplace Company on February 1, 1996. 61 FR 5755, February 14, 1996. (Case No. DH-005).

Issued in Washington, D.C., on April 4, 1996.

Christine A. Ervin,

Assistant Secretary, Energy Efficiency and Renewable Energy.

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FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION: In accordance with 10 CFR 430.27(j), notice is hereby given of the issuance of the Decision and Order as set out below. In the Decision and Order, Thermo has been granted a Waiver for its CHA-upflow and CGA-downflow series of condensing gas furnaces permitting the company to use an alternate test method in determining AFUE.

Issued in Washington, DC, on April 4, 1996.

Christine A. Ervin,

Assistant Secretary, Energy Efficiency and Renewable Energy.

Decision and Order, Department of Energy, Office of Energy Efficiency and Renewable Energy

In the matter of: Thermo Products Inc. (Case No. F-083).

Background

The Energy Conservation Program for Consumer Products (other than automobiles) was established pursuant to the Energy Policy and Conservation Act, Public Law 94-163, 89 Stat. 917, as amended (EPCA), which requires DOE to prescribe standardized test procedures to measure the energy consumption of certain consumer products, including furnaces. The intent of the test procedures is to provide a comparable measure of energy consumption that will assist consumers in making purchasing decisions. These test procedures appear at 10 CFR Part 430, Subpart B.

The Department amended the prescribed test procedures by adding 10 CFR 430.27 to create a waiver process. 45 FR 64108, September 26, 1980. Thereafter, DOE further amended its appliance test procedure waiver process to allow the Assistant Secretary for Energy Efficiency and Renewable Energy (Assistant Secretary) to grant an Interim Waiver from test procedure requirements to manufacturers that have petitioned DOE for a waiver of such prescribed test procedures. 51 FR 42823, November 26, 1986.

The waiver process allows the Assistant Secretary to waive temporarily test procedures for a particular basic model when a petitioner shows that the basic model contains one or more design characteristics which prevent testing according to the prescribed test procedures or when the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption as to provide materially inaccurate comparative data. Waivers generally remain in effect until test procedure amendments become effective, resolving the problem that is the subject of the waiver.

Thermo filed a "Petition for Waiver," dated November 29, 1995, in accordance with section 430.27 of 10 CFR Part 430. The Department published in the Federal Register on January 30, 1996. Thermo's Petition and solicited comments, data and information respecting the Petition. 61 FR 3023, January 30, 1996. Thermo also filed an "Application for Interim Waiver" under section 430.27(b)(2), which DOE granted on January 24, 1996. 61 FR 3023, January 30, 1996.

No Comments were received concerning either the "Petition for Waiver" or the "Application for Interim Waiver." The Department consulted with The Federal Trade Commission (FTC) concerning the Thermo Petition. The FTC did not have any objections to the issuance of the waiver to Thermo.

Assertions and Determinations

Thermo's Petition seeks a waiver from the DOE test provisions that require a 1.5-minute time delay between the ignition of the burner and the starting of the circulating air blower. Thermo requests the allowance to test using a 45-second blower time delay when testing its CHA-upflow and CGA-downflow series of condensing gas furnaces. Thermo states that since the 45-second delay is indicative of how these models actually operate, and since such a delay results in an increase in AFUE improvement of up to 2.0 percent, the Petition should be granted.

Under specific circumstances, the DOE test procedure contains exceptions which allow testing with blower delay times of less than the prescribed 1.5-minute delay. Thermo indicates that it is unable to take advantage of any of these exceptions for its CHA-upflow and CGA-downflow series of condensing gas furnaces.

Since the blower controls incorporated on the Thermo furnaces are designed to impose a 45-second blower delay in every instance of start up, and since the current test procedure

[Case No. F-083]

Energy Conservation Program for Consumer Products: Decision and Order Granting a Waiver From the Furnace Test Procedure to Thermo Products Inc.

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

ACTION: Decision and order.

SUMMARY: Notice is given of the Decision and Order (Case No. F-083) granting a Waiver to Thermo Products Inc. (Thermo) from the existing Department of Energy (DOE or Department) test procedure for furnaces. The Department is granting Thermo's Petition for Waiver regarding blower time delay in calculation of Annual Fuel Utilization Efficiency (AFUE) for its CHA-upflow and CGA-downflow series of condensing gas furnaces.