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[6450-01-P]

DEPARTMENT OF ENERGY

10 CFR Part 430

[Docket Number EERE-2013-BT-TP-0004]

RIN 1904-AC94

Energy Conservation Program for Consumer Products: Test Procedures for Direct Heating Equipment and Pool Heaters

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

ACTION: Notice of petition to extend test procedure compliance date and request for comment.

SUMMARY: This notice announces a petition from Williams Furnace Company (Williams) requesting that the Department of Energy (DOE) extend the compliance date for the direct home heating equipment and pool heaters test procedure final rule published on January 6, 2015 by 180 days, with respect to Williams. The compliance date for the direct home heating equipment and pool heaters test procedure final rule is July 6, 2015. Williams states in its petition that due to a clarification in the vented home heating equipment test procedure, this timeframe for compliance does not provide Williams sufficient time to conduct further testing and complete any required design modifications to meet the standard using the new test procedure. DOE seeks comment on Williams' petition to extend the compliance date, with respect to Williams, for the direct heating equipment test procedure by 180 days.

DATES: DOE will accept comments with respect to Williams' petition until **[INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES:

The docket is available for review at www.regulations.gov, including Federal Register notices, public meeting attendee lists and transcripts, comments, and other supporting documents/materials. All documents in the docket are listed in the www.regulations.gov index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.

A link to the docket web page can be found at:
<http://www.regulations.gov/#!docketDetail;D=EERE-2013-BT-TP-0004>. This web page contains a link to the docket for this notice on the www.regulations.gov site. The www.regulations.gov web page contains simple instructions on how to access all documents, including public comments, in the docket.

For information on how to review the docket, contact Ms. Brenda Edwards at (202) 586-2945 or by email: Brenda.Edwards@ee.doe.gov.

FOR FURTHER INFORMATION CONTACT:

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Washington, DC 20585-0121. Telephone: (202) 287-1692. E-mail:

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Sarah Butler , U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue, SW., Washington, DC 20585-0121. Telephone: (202) 586-1777. E-mail: Sarah.Butler@hq.doe.gov.

SUPPLEMENTARY INFORMATION:

DOE published a final rule on January 6, 2015 amending the test procedures for vented home heating equipment and pool heaters (referred to hereafter as “2015 test procedure final rule”). 80 FR 792. Pursuant to 42 U.S.C. 6293(c)(2), effective 180 days after DOE prescribes or establishes a new or amended test procedure, manufacturers must make representations of energy efficiency, including certifications of compliance, using that new or amended test procedure. Accordingly, the mandatory compliance date for the 2015 test procedure final rule is July 6, 2015. The Energy Policy and Conservation Act of 1975 (EPCA), Public Law 94-163 (codified at 42 U.S.C. 6291-6309) provides that on the petition of any manufacturer, distributor, retailer, or private labeler, filed not later than the 60th day before the expiration of the period involved, the 180-day period may be extended by the Secretary with respect to the petitioner (but in no event for more than an additional 180 days) if the Secretary determines that the requirements under 42 U.S.C. 6293(c)(2) would impose an undue hardship on such petitioner. (42 U.S.C. 6293(c)(3))

On March 19, 2015, DOE received a petition from Williams requesting that DOE extend the compliance date of the 2015 test procedure final rule by 180 days, with respect to Williams. The basis of the petition is DOE’s clarification that section 4.3, "Annual fuel utilization

efficiency by the tracer gas method," of the vented home heating equipment test procedure located at Appendix O to Subpart B of Part 430 (section 4.3), applies only to vented home heating equipment equipped with thermal stack dampers. Under the amended test procedure, only vented home heating equipment equipped with thermal stack dampers may use the tracer gas method to test annual fuel utilization efficiency (AFUE). Williams states in the petition that based on its observations at a third party lab, it has been using the tracer gas test method to test vented home heating equipment not equipped with thermal stack dampers since 2011.

According to the petition, due to the clarification to section 4.3, the compliance time frame to transition to the amended test procedure does not provide Williams sufficient time to conduct further testing and complete any necessary design modifications to its models of vented home heating equipment without thermal stack dampers. Williams states that without the 180-day extension of the July 6, 2015 compliance date, it could potentially be at a competitive disadvantage in the heater marketplace. Williams states that granting the extension will remove the burden of conducting the aforementioned testing and possible design modifications by July 6, 2015 and will allow Williams the necessary time to manage the transition to the amended vented home heating equipment test procedure.

DOE seeks comment on Williams' petition to extend the July 6, 2015 compliance date for the 2015 test procedure final rule by 180 days, with respect to Williams.

Issued in Washington, DC, on April 29, 2015.



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

Williams Furnace Company PETITION

Before the United States Department of Energy

Office of Energy Efficiency and Renewable Energy

In the Matter of: Docket No. EERE-2011-BT-TP-0042, RIN: 1904-AC94, Energy Conservation Program for Consumer Products: Test Procedures for Direct Heating Equipment and Pool Heaters; Final Rule.

10 CFR Part 430

Petition for Reconsideration

Via Email: john.cymbalsky@ee.doe.gov

Mr. John Cymbalsky

Office of Energy Efficiency and
Renewable Energy

Building Technologies Program, EE-2J

U.S. Department of Energy

1000 Independence Ave., SW

Washington, DC, 20585

Re: Petition to Extend Implementation Date of July 6, 2015 Test Procedure

Dear Mr. Cymbalsky:

This firm represents Williams Furnace Company (Williams) and respectfully submits this Petition to Extend Implementation Date of July 6, 2015 on behalf of Williams.

In the Energy Conservation Program for Consumer Products: Test Procedures for Direct Heating Equipment and Pool Heaters; Final Rule, Fed. Reg., Vol. 80, No. 3 (6 Jan. 2015), pp. 792-815, the U. S. Department of Energy (DOE) issued a notice of a Final Rule revising the annual flue utilization efficiency (AFUE) test procedures for vented direct heating equipment and pool heaters. The Final Rule became effective February 5, 2015 and compliance becomes mandatory starting July 6, 2015. For the following reasons, Williams requests a 180-day extension of the July 6, 2015 effective date, which is the maximum allowed by statute.

Section 4.3 of the Final Rule, "Annual fuel utilization efficiency by the tracer gas method" has been changed to apply only to vented heaters equipped with thermal stack dampers. Fed. Reg., Vol. 80, No. 3 (6 Jan. 2015), p. 811. Prior to the recent change, the AFUE test procedures stated that "All other types of vented heaters can elect to use the following tracer gas method, as an optional procedure." It appears that DOE believes that heater manufacturers do not use the tracer gas method to test heaters without thermal stack dampers and do not use such testing results to calculate the AFUE for such units. Therefore, it appears that the DOE considers this a clarification of the AFUE test procedure and not a change to the AFUE test procedure.

In Fed. Reg., Vol. 80, No. 3, Section III. C. 3. Other Issues, page 798, the DOE states the following:

"For the reasons described previously, DOE clarifies that the optional use of the tracer gas method does not apply to units without thermal stack dampers. DOE has determined this clarification will not impose any additional burden on manufacturers, since units without thermal stack dampers are already commonly rated using the calculation method in 4.1 or 4.2. Moreover, the DOE has determined that disallowing the tracer gas method for units without thermal stack dampers will not affect efficiency ratings, since it is highly unlikely that manufacturers have rated units without thermal stack dampers using the tracer gas method."

Though Williams agrees with the concept of the DOE's "clarification" of the AFUE test procedures for vented heaters without thermal stack dampers, the Final Rule clarification

presents a significant issue for Williams and places an unnecessary burden on our company.

Williams is a long-time furnace manufacturer which has been in business nearly 100 years. All of Williams' vented heaters are manufactured without thermal stack dampers. Williams has used the tracer gas method for testing AFUE in its vented heaters without thermal stack dampers since May 2011.

Williams began to use the tracer gas method to test the AFUE in its vented heaters without thermal stack dampers after visiting Intertek Testing Services, Inc. (Intertek) in Cortland, NY, on March 15, 2011. Jesus Rios of Williams met with Intertek's Gregory King and Daniel Bilodeau to discuss and to confirm that Williams' test method for AFUE testing for vented heaters without thermal stack dampers was identical to Intertek's test method for AFUE testing for vented heaters without thermal stack dampers. As you know, Intertek Testing Services, Inc. is the facility approved by and utilized by the DOE.

While at Intertek, Jesus Rios noticed that Intertek was using a different test method for AFUE testing of vented heaters without thermal stack dampers than Williams was using. Jesus Rios asked Intertek what test method Intertek was using for AFUE testing of vented heaters without thermal stack dampers. Intertek confirmed to Jesus Rios that Intertek was using the tracer gas method to test the AFUE in vented heaters without thermal stack dampers. Subsequently, upon Jesus Rios' return to Williams' facility in Colton, CA, he researched the tracer gas method and contacted Intertek to find out what equipment was necessary to perform the tracer gas method to test the AFUE in vented heaters without thermal stack dampers. Thereafter, Williams purchased

the necessary equipment to perform the tracer gas method to test the AFUE in vented heaters without thermal stack dampers.

In May 2011, Williams began using the tracer gas method to test the AFUE in vented heaters without thermal stack dampers after conducting some test runs to make sure Williams was performing the tracer gas method test properly and could confirm that the Williams' tracer as method test results were similar to the tracer gas method test results achieved by Intertek on March 15, 2011, when Intertek tested the Williams' vented heaters without thermal stack dampers. Williams has been using the tracer gas method to test the AFUE in vented heaters without thermal stack dampers continuously since May 2011 up to the present time. The tracer gas method procedure allows for an actual measurement of the draft factor using carbon monoxide, instead of using a standard draft factor of one. Williams believes that the tracer gas method is a more accurate measurement of the AFUE.

The time frame from now to July 6, 2015, does not provide Williams sufficient time to conduct further testing of and to complete any required design modification to any models of Williams' vented heaters without thermal stack dampers that might be marginally close to passing the required AFUE standards because of the implementation of the Final Rule disallowing the tracer gas method to test the AFUE in vented heaters without thermal stack dampers. Without the 180-day extension of the July 6, 2015 effective date in order to perform the afore-stated testing of and any necessary design modification to its products, Williams could potentially be at a competitive disadvantage in the heater marketplace.

An extension of the July 6, 2015 date does not disadvantage consumers or hamper the DOE's regulatory activities. Granting the extension of time will allow Williams to improve its products where necessary and to ensure Williams' compliance with the required AFUE standards.

Delaying the July 6, 2015 date by 180 days will remove the unnecessary burden on Williams of having to conduct testing on all of models of Williams' vented heaters without thermal stack dampers in the next three and one-half months and will allow Williams the necessary time to manage the transition to the Final Rule revising the AFUE test procedures. For the foregoing reasons, Williams requests that the DOE grant Williams a 180-day extension of the July 6, 2015 effective date of the Final Rule.

Respectfully submitted,

WIEZOREK & PAYNE

ANTHONY F. WIEZOREK

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