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SUPPLEMENTARY INFORMATION: The Energy Conservation Program for Consumer Products (other than automobiles) was established pursuant to the Energy Policy and Conservation Act, 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 informed purchasing decisions. These test procedures appear at Title 10 CFR Part 430, Subpart B.

The Department amended the test procedure rules to provide for a waiver process by adding § 430.27 to Title 10 CFR Part 430. 45 FR 64108, September 26, 1980. Subsequently, DOE amended the 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. Title 10 CFR Part 430, § 430.27(a)(2).

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.

An Interim Waiver will be granted if it is determined that the applicant will experience economic hardship if the Application for Interim Waiver is denied, if it appears likely that the Petition for Waiver will be granted, and/ or the Assistant Secretary determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the Petition for Waiver. Title 10 CFR Part 430, § 430.27(g). An Interim Waiver remains in effect for a period of 180 days, or until DOE issues a determination on the Petition for Waiver, whichever is sooner, and may be extended for an additional 180 days, if necessary.

On October 2, 1995, CFM filed an Application for Interim Waiver and a Petition for Waiver regarding (a) pilot light energy consumption and (b) weighted average steady state efficiency. On October 30, 1995, CFM submitted a letter to DOE providing additional product information and amending the list of models submitted for consideration in the October 2, 1995 Waiver requests.

CFM seeks an Interim Waiver from the DOE test provisions in section 3.5 of Title 10 CFR Part 430, Subpart B, Appendix O, that require measurement of energy input rate of the pilot light (Q_p) , and the use of this data in section 4.2.6 for the calculation of AFUE, where:

 $AFUE = (4400\eta_{SS}\eta_u Q_{in-max})/$

 $(4400\eta_{SS}Q_{in-max}+2.5(4600)\eta_u Q_p)$ Instead, CFM requests that it be allowed to delete Q_p and accordingly, the $(2.5(4600)\eta_u Q_p)$ term in the calculation of AFUE. CFM states that instructions to turn off the transient pilot by the user when the heater is not in use are in the User Instruction Manual and on a label adjacent to the gas control valve. Therefore, the additional energy savings that result when the pilot is turned off $(Q_p=0)$ should be credited. Since the current DOE test procedure does not address pilot light energy savings, CFM asks that the Interim Waiver be granted.

CFM also seeks an Interim Waiver from the DOE test provisions in section 3.1.1 of Title 10 CFR Part 430, Subpart B, Appendix O, which require steady state efficiency of manually controlled vented heaters with various input rates to be determined at a fuel input rate that is within \pm 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 needed in the calculation of AFUE. Instead, CFM requests that it be allowed to determine steady state efficiency, weighted average steady state efficiency, and AFUE at a minimum fuel input rate of two-thirds of the maximum fuel input rate for its manually controlled vented heaters which do not adjust to an input rate as low as 50

percent. Since the current DOE test procedure does not address steady state testing for manually controlled vented heaters with various input rates at fuel input rates other than within ± 5 percent of 50 percent of the maximum fuel input rate, CFM asks that the waiver be granted.

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 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 instead of the specified ±5 percent of 50 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 Incorporated, 56 FR 51714, October 15, 1991.

The Department published a Notice of Proposed Rulemaking on August 23, 1993, to amend the vented home heating equipment test procedure, which would allow the above requests. 58 FR 44583.

Thus, it appears likely that CFM's Petition for Waiver for pilot light and weighted average steady state efficiency for home heating equipment will be granted. In those instances where the likely success of the Petition for Waiver has been demonstrated based upon DOE having granted a waiver for a similar product design, it is in the public interest to have similar products tested and rated for energy consumption on a comparable basis.

Therefore, based on the above, DOE is granting CFM an Interim Waiver for its models DV32, DV34, DV36, DV40, DVS2, DVS3, HEDV30, HEDV30–1, FSDV30, FS30, FA20, HE30, HEB30, FADV20, and HE40 vented heaters. CFM shall be permitted to test its models DV32, DV34, DV36, DV40, DVS2, DVS3, HEDV30, HEDV30–1, FSDV30, FS30, FA20, HE30, HEB30, FADV20, and HE40 vented heaters on the basis of the test procedures specified in Title 10 CFR Part 430, Subpart B, Appendix O, with the modifications set forth below:

(i) Delete paragraph 3.5 of Appendix O.

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

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-wT}) 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