



DEPARTMENT OF ENERGY

[Case Number 2020-002; EERE-2020-BT-WAV-0009]

Energy Conservation Program: Decision and Order Granting a Waiver to Senneca Holdings from the Department of Energy Walk-in Cooler and Walk-in Freezer Test Procedure

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

ACTION: Notification of decision and order.

SUMMARY: The Department of Energy (“DOE”) gives notification of a Decision and Order (Case Number 2020-002) that grants to Senneca Holdings (“Senneca”) a waiver from specified portions of the DOE test procedure for determining the energy consumption of specified walk-in cooler and walk-in freezer door (“walk-in door”) basic models. Under the Decision and Order, Senneca is required to test and rate the 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 January 4, 2021. The Decision and Order will terminate upon the compliance date of any future amendment to the test procedure for walk-in cooler and walk-in freezer doors located at title 10 of the Code of Federal Regulations (“CFR”), part 431, subpart R, appendix A that addresses the issues presented in this waiver. At such time, Senneca 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 notification of the issuance of its Decision and Order as set forth below. The Decision and Order grants Senneca a waiver from the applicable test procedure at 10 CFR part 431, subpart R, appendix A for specified basic models of walk-in doors, and provides that Senneca must test and rate such equipment using the alternate test procedure specified in the Decision and Order. Senneca'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 not 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.

Signing Authority

This document of the Department of Energy was signed on December 28, 2020, by Daniel R Simmons, Assistant Secretary for Energy Efficiency and Renewable Energy, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the *Federal Register*.

Signed in Washington, DC, on December 29, 2020.

Treena V. Garrett,
Federal Register Liaison Officer,
U.S. Department of Energy.

Case # 2020-002
Decision and Order

I. Background and Authority

The Energy Policy and Conservation Act, as amended (“EPCA”),¹ among other things, authorizes the U.S. Department of Energy (“DOE”) to regulate the energy efficiency of a number of consumer products and certain industrial equipment. (42 U.S.C. 6291–6317) 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. These types of equipment include walk-in coolers and walk-in freezers, 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), test procedures (42 U.S.C. 6314), labeling provisions (42 U.S.C. 6315), energy conservation standards (42 U.S.C. 6313), and the authority to require information and reports from manufacturers (42 U.S.C. 6316).

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))

¹ All references to EPCA in this document refer to the statute as amended through America’s Water Infrastructure Act of 2018, Public Law 115-270 (Oct. 23, 2018).

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

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 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 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(f)(2). DOE may grant the waiver subject to conditions, including adherence to alternate test procedures. *Id.*

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

By letter dated March 13, 2020, Senneca Holdings (“Senneca”) filed a petition for waiver and a petition for interim waiver from the DOE test procedure applicable to walk-in doors set forth in Appendix A. (Senneca, No. 1)³ In response to questions from DOE, Senneca provided subsequent petitions for waiver and interim waiver on June 12, 2020 (Senneca, No. 2) and on

³ A notation in the form “Senneca, No. 1” identifies a written submission: (1) made by Senneca Holdings; and (2) recorded in document number 1 that is filed in the docket of this petition for waiver (Docket No. EERE-2020-BT-WAV-0009) and available for review at <http://www.regulations.gov>.

July 21, 2020 (Senneca, No. 3)⁴. 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. Appendix A, section 4.5.2. Section 4.5.2 of Appendix A specifies a PTO of 25 percent 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 percent for other electricity-consuming devices without demand-based controls. *Id.* In its petition for waiver, Senneca suggested applying a PTO value of 97 percent to the door motors associated with the basic models specified in its petition. Senneca stated that the test procedure’s assumption that the door motor operates for 75 percent of the day significantly overstates normal motor usage on their ColdGuard and Eco-Cold powered door models, causing the prescribed test procedure to inaccurately evaluate the true energy consumption characteristics as to provide materially inaccurate comparative data (Senneca, No. 3 at p. 1).

On September 28, 2020, DOE published a notification that announced its receipt of the petition for waiver and granted Senneca an interim waiver. 85 FR 60771 (“Notification of Petition for Waiver”). In the Notification of Petition for Waiver, DOE presented Senneca’s claim that results from testing the specified basic models according to Appendix A are unrepresentative of actual energy usage because of the assigned PTO value. DOE also summarized Senneca’s requested alternate test procedure, which would require testing the specified basic models according to Appendix A, except the PTO value for door motors would be modified from 25 percent to 97 percent for the specified freight and passage doors.

As explained in the Notification of Petition for Waiver, DOE considered the potential range of parameters affecting door motor operating time and evaluated the PTO based on the most energy consumptive scenarios for both the horizontally and vertically opening door basic

⁴ Due to the lengthy list of walk-in door basic models listed in Senneca’s July 21, 2020 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 <http://www.regulations.gov/docket?D=EERE-2020-BT-WAV-0009>.

models specified by Senneca. 85 FR 60771, 60774. In its calculations, DOE used the largest door opening at the slowest speed and standard duty cycle specified in the product literature of the door motors associated with Senneca's specified basic models. *Id.* Assuming the most energy consumptive scenarios, DOE initially determined that the suggested PTO value of 97 percent was more representative of actual energy use than the currently required PTO value of 25 percent. 85 FR 60771, 60775.

In the Notification of Petition for Waiver, DOE also solicited comments from interested parties on all aspects of the petition and the specified alternate test procedure. 85 FR 60771. In response, DOE received one substantive comment⁵ from Hussmann Corporation ("Hussmann").⁶ Hussmann objected to Senneca's request for an alternate test procedure, asserting that Senneca's waiver request does not meet the criteria for DOE to grant a waiver, specifically: (1) the basic model(s) for which the waiver was requested must contain a design characteristic that prevents testing of the basic model according to the prescribed test procedures, or (2) the prescribed test procedure must evaluate the basic model(s) in a manner so unrepresentative of its true energy consumption as to provide materially inaccurate comparative data. (Hussmann, No. 5 at p. 1) Further, Hussmann stated that Senneca's petition should be denied because investment and redesign can be used to achieve compliance with the current Federal standards. (Hussmann, No. 5 at p. 2)

As discussed previously, DOE may grant a waiver if either (1) 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 (2) 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(f)(2). In response to Hussmann's assertion that the criteria for granting a waiver to Senneca has not been met, DOE

⁵ DOE received an additional comment from an anonymous submitter opposing waivers in general.

⁶ Hussmann's comment can be accessed at: <https://www.regulations.gov/docket?D=EERE-2020-BT-WAV-0009>.

notes that while Senneca is not prevented from testing the basic models specified in its waiver petition, the performance data demonstrate that the current test procedure evaluates the energy consumption of its basic models with motorized door openers in a manner so unrepresentative of its true energy consumption as to provide materially inaccurate comparative data. In response to Hussmann's comment that compliance with current Federal standards could be achieved, DOE notes that the criteria which allow DOE to grant a waiver do not depend on whether investment or redesign could make the basic models compliant with the standard. EPCA does not require that a manufacturer design a particular type of equipment to enable it to be tested under a given test procedure. Instead, a test procedure must, among other things, be reasonably designed to produce test results reflecting the energy efficiency of a given type of industrial equipment. See generally 42 U.S.C. 6314(a)(2). Additionally, the required use of 97 percent is consistent with waivers previously granted in response to petitions that presented the same issue as in Senneca's petition. See Notice of Decision and Order granting a waiver to Jamison Door (Case No. 2017-009), 83 FR 53460 (Oct. 23, 2018); Notice of Decision and Order granting a waiver to HH Technologies (Case No. 2018-001), 83 FR 53457 (Oct. 23, 2018)); and Extension of Waiver to HH Technologies (Case No. 2018-011), 84 FR 1434 (Feb. 4, 2019)).⁷

For the reasons explained here and in the Notification of Petition for Waiver, absent a waiver the basic models identified by Senneca 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 Senneca and concludes that it will allow for the accurate measurement of the energy use of the equipment, while alleviating the testing issues associated with Senneca's implementation of DOE's applicable walk-in door test procedure for the specified basic models. Thus, DOE is requiring that Senneca test and rate

⁷ DOE notes that Hussmann has previously expressed general support for similar petitions for waiver, specifically in response to waiver petitions from Jamison Door, in which Jamison Door requested a PTO value of 93.5 percent (Docket No. EERE-2017-BT-WAV-0040-0005 at p. 1), and from HH Technologies, in which HH Technologies requested a PTO value of 96 percent (Docket No. EERE-2018-BT-WAV-0001-0013 at p. 1)

walk-in door 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 is applicable 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.

Senneca may request that DOE extend the scope of this waiver to include additional basic models that employ the same technology as those listed in this waiver. 10 CFR 431.401(g). Senneca 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, Senneca 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).

III. Order

After careful consideration of all the material that was submitted by Senneca, the various public-facing materials (*e.g.*, product literature, installation manuals) for the units listed in the petition, and comment(s) received, in this matter, it is **ORDERED** that:

(1) Senneca must, as of the date of publication of this Order in the *Federal Register*, test and rate the basic models listed in Appendix I of its July 21, 2020 petition as provided in Docket

Number EERE-2020-BT-WAV-0009-0003 with the alternate test procedure as set forth in paragraph (2):

(2) The alternate test procedure for the Senneca basic models identified in paragraph (1) of this Order is the test procedure for walk-in doors prescribed by DOE at 10 CFR part 431, subpart R, 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 97 percent for door motors. All other requirements of 10 CFR part 431, subpart R, appendix A and DOE's regulations remain applicable.

(3) *Representations.* Senneca may not make representations about the energy use of a basic model identified in paragraph (1) of this Order for compliance or marketing, 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.

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

(5) DOE issues this waiver on the condition that the door performance characteristics, statements, representations, test data, and documentary materials provided by Senneca are valid. If Senneca makes any modifications to the controls or configurations of these basic models, such modifications will render the waiver invalid with respect to that basic model, and Senneca will either be required to use the current Federal test method or submit a new application for a test procedure waiver. DOE may rescind 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 a basic model's true energy consumption characteristics. 10 CFR 431.401(k)(1). Likewise, Senneca may request that DOE rescind or modify the waiver if

Senneca 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) Senneca remains obligated to fulfill all applicable requirements set forth at 10 CFR part 429.

Signed in Washington, DC, on December 28, 2020.

Daniel R Simmons,
Assistant Secretary for
Energy Efficiency and Renewable Energy.

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