

acknowledges that the implementation of a comprehensive system to serve LEP individuals is a process and that a system will evolve over time as it is implemented and periodically reevaluated. As recipients take reasonable steps to provide meaningful access to federally assisted programs and activities for LEP persons, DoD will look favorably on intermediate steps recipients take that are consistent with this Guidance, and that, as part of a broader implementation plan or schedule, move their service delivery system toward providing full access to LEP persons. This does not excuse noncompliance but instead recognizes that full compliance in all areas of a recipient's activities and for all potential language minority groups may reasonably require a series of implementing actions over a period of time. However, in developing any phased implementation schedule, DoD recipients should ensure that the provision of appropriate assistance for significant LEP populations or with respect to activities having a significant impact on the health, safety, legal rights, education, economic status, or livelihood of beneficiaries is addressed first. Recipients are encouraged to document their efforts to provide LEP persons with meaningful access to federally assisted programs and activities.

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DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

[Case No. CR-002]

Decision and Order Granting a Waiver to Hussmann From the Department of Energy Commercial Refrigerator, Freezer and Refrigerator-Freezer Test Procedure

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

ACTION: Decision and Order.

SUMMARY: The U.S. Department of Energy (DOE) gives notice of the decision and order (Case No. CR-002) that grants to Hussmann Corporation (Hussmann) a waiver from the U.S. Department of Energy (DOE) test procedure for determining the energy consumption of its commercial refrigerators for the basic models set forth in its petition for waiver (petition). Hussmann claims in its petition that the specified basic models cannot be tested

in accordance with the DOE test procedure for commercial refrigeration equipment because the equipment cannot operate at the specified integrated average product temperature of $38^{\circ}\text{F} \pm 2^{\circ}\text{F}$. Under today's decision and order, Hussmann shall be required to test and rate the commercial refrigerators specified in the petition at the lowest integrated average temperature at which the refrigerators can operate of $41^{\circ}\text{F} \pm 2^{\circ}\text{F}$, which is consistent with the lowest application product temperature provision in the DOE test procedure.

DATES: This Decision and Order is effective December 31, 2013.

FOR FURTHER INFORMATION CONTACT: Mr. Bryan Berringer, U.S. Department of Energy, Building Technologies Office, Mail Stop EE-5B, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585-0121. Telephone: (202) 586-0371. Email: Bryan.Berringer@ee.doe.gov.

Ms. Jennifer Tiedeman, U.S. Department of Energy, Office of the General Counsel, Mail Stop GC-71, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585-0103. Telephone: (202) 287-6111. Email: mailto:Jennifer.Tiedeman@hq.doe.gov.

SUPPLEMENTARY INFORMATION: DOE issues notice of this Decision and Order in accordance with Title 10 of the Code of Federal Regulations (10 CFR) 431.401(f)(4). In this Decision and Order, DOE grants Hussmann a waiver for the commercial refrigerators specified in its petition submitted on December 7, 2011. Hussmann must test and rate this equipment at the lowest integrated average temperature at which the commercial refrigerators can operate, which is consistent with the lowest application product temperature provision in the DOE test procedure at 10 CFR 431.64(b)(3)(A).

Today's decision requires Hussmann to make representations concerning the energy efficiency of this equipment consistent with the provisions and restrictions of the alternate test procedure in the Decision and Order below, and the representations must fairly disclose the test results. (42 U.S.C. 6314(d)) The same standard applies to distributors, retailers, and private labelers when making representations of the energy efficiency of this equipment.

Issued in Washington, DC, on December 23, 2013.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

Decision and Order

In the Matter of: Hussmann Corporation (Hussmann) (Case No. CR-002).

I. Background and Authority

Title III, Part C of the Energy Policy and Conservation Act of 1975 (EPCA), Public Law 94-163 (42 U.S.C. 6311-6317), established the Energy Conservation Program for certain industrial equipment, which includes commercial refrigeration equipment, the focus of this notice.¹ Part C specifically includes 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) With respect to test procedures, Part C authorizes the Secretary of Energy (the Secretary) to prescribe test procedures that are reasonably designed to produce results that measure energy efficiency, energy use, and estimated annual operating costs, and that are not unduly burdensome to conduct. (42 U.S.C. 6314(a)(2))

Section 343(a)(6)(C) of EPCA directs DOE to develop test procedures to establish the appropriate rating temperatures for products for which standards will be established under section 343(a)(6), including (1) ice-cream freezers; (2) commercial refrigerators, freezers, and refrigerator-freezers with a self-contained condensing unit without doors; and (3) commercial refrigerators, freezers, and refrigerator-freezers with a remote condensing unit. Other provisions of section 343(a)(6) provide DOE with additional authority to establish and amend test procedures for commercial refrigeration equipment. (42 U.S.C. 6314(a)(6)(C)) On December 8, 2006, DOE published a final rule adopting test procedures for commercial refrigeration equipment. 71 FR 71340. Title 10 of the *Code of Federal Regulations* (10 CFR) 431.64 directs manufacturers of commercial refrigerators, freezers and refrigerator-freezers to use certain sections of Air-Conditioning and Refrigeration Institute (ARI) Standard 1200-2006, "Performance Rating of Commercial Refrigerated Display

¹ For editorial reasons, upon codification in the U.S. Code, Part C was re-designated Part A-1.

Merchandisers and Storage Cabinets'' when measuring the energy consumption of this equipment. On January 9, 2009, DOE established energy conservation standards for certain classes of commercial refrigerators, effective January 1, 2012, and provided that the test procedures at 10 CFR 431.64 apply to that equipment. 74 FR 1092, 96. The basic models included in Hussmann's petition are subject to the applicable standards established in that rulemaking and are therefore required to be tested and rated according to the prescribed DOE test procedure as of January 1, 2012.

DOE's regulations for covered products and equipment permit a person to seek a waiver from the test procedure requirements for covered commercial equipment if at least one of the following conditions is met: (1) The petitioner's basic model contains one or more design characteristics that prevent testing according to the prescribed test procedures; or (2) 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. 10 CFR 431.401(a)(1). Petitioners must include in their petition any alternate test procedures known to the petitioner to evaluate the basic model in a manner representative of its energy consumption. The Assistant Secretary for Energy Efficiency and Renewable Energy (Assistant Secretary) may grant a waiver subject to conditions, including adherence to alternate test procedures. 10 CFR 431.401(f)(4). Waivers remain in effect according to the provisions of 10 CFR 431.401(g).

II. Hussmann's Petition for Waiver: Assertions and Determinations

On December 7, 2011, Hussmann submitted a petition for waiver from the DOE test procedure applicable to commercial refrigerators, freezers and refrigerator-freezers set forth in 10 CFR 431.64. Hussmann requested the waiver for its commercial refrigerators intended to hold and display bulk produce (whole, uncut fresh fruits and/or vegetables). These refrigerators are manufactured in both "remote" and "self-contained" versions. This equipment is classified as either "commercial refrigerator, freezer, and refrigerator-freezer with a self-contained condensing unit and without doors" (category (viii) in the table listing some of the applicable test procedure requirements at 10 CFR 431.64(b)(2)) or "commercial refrigerator, freezer, and refrigerator-freezer with a remote condensing unit" (category (ix) of the

above table). The applicable test procedure for this equipment is specified in 10 CFR 431.64(b), which incorporates by reference ARI Standard 1200-2006.

Hussmann seeks a waiver from the applicable test procedure under 10 CFR 431.64 on the grounds that its commercial refrigerators contain design characteristics that prevent testing according to the current DOE test procedure. Specifically, Hussmann asserts that the refrigerators are not able to operate at the specified integrated average temperature of 38 °F for medium temperature applications. Consequently, Hussmann requested that DOE grant a waiver from the applicable test procedure, allowing the specified products to be tested at 49 °F.

The Department articulated its position regarding basic models of commercial refrigeration equipment that are not capable of operating at the required integrated average temperature specified by the DOE test procedure in a test procedure final rule published on February 21, 2012. 77 FR 10292. Specifically, to qualify to use the lowest application product temperature for a certain piece of equipment, a manufacturer should be confident that any case tested under that equipment rating could achieve the specified lowest application product temperature within ± 2 °F and could not be tested at the rating temperature (i.e., integrated average temperature specified by the DOE test procedure) for the given equipment class. Further, in the final rule, DOE clarified that, for many pieces of equipment, the lowest application product temperature that should be used for testing will be the lowest temperature setting on the unit's thermostat. 77 FR 10292, 10303 (Feb. 21, 2012).

DOE agrees with Hussmann's assertion that the basic models identified in its petition cannot be operated at the associated rating conditions currently specified for commercial refrigerators in the DOE test procedures given the available data. DOE has confirmed with Hussmann that the lowest temperature these basic models are capable of operating would be 41 °F, however (not the 49 °F requested by Hussmann). In light of this, DOE has determined that the basic models of commercial refrigerators listed in Hussmann's petition should be tested at their lowest application product temperature as defined at 10 CFR 431.62, which corresponds to an integrated average temperature of 41 °F.

DOE notes that use of the amended test procedure set forth in the aforementioned final rule will be

required on the compliance date of any amended standards for this equipment. (77 FR 10292, Feb. 21, 2012)

III. Conclusion

After careful consideration of all the material that was submitted by Hussmann, *it is ordered that:*

(1) The petition for waiver submitted by the Hussmann (Case No. CR-002) *is hereby granted* as set forth in paragraphs (2), (3), (4) and (5).

(2) Hussmann *shall be* required to test and rate the following basic models according to the alternate test procedure set forth in paragraph (3) of this section.

DBRP-03-4-R, DBRP-03-6-R, DBRP-03-8-R, DBRP-03-10-R, DBRP-03-12-R, DBRP-03-14-R, DBRP-03-16-R, DBRP-03-18-R, DBRP-03-20-R, DBRP-03-22-R, DBRP-03-24-R, DBRP-03-26-R, DBRP-03-28-R, DBRP-03-30-R, DBRP-03-32-R, DBRP-03-34-R, DBRP-03-36-R
DSRP-03-5-R, DSRP-03-6-R, DSRP-03-8-R, DSRP-03-10-R, DSRP-03-12-R, DSRP-03-14-R, DSRP-03-16-R, DSRP-03-18-R, DSRP-03-20-R, DSRP-03-22-R, DSRP-03-24-R, DSRP-03-26-R, DSRP-03-28-R, DSRP-03-30-R, DSRP-03-32-R, DSRP-03-34-R, DSRP-03-36-R
DSRPI-03-5-R, DSRPI-03-6-R, DSRPI-03-8-R, DSRPI-03-10-R, DSRPI-03-12-R, DSRPI-03-14-R, DSRPI-03-16-R, DSRPI-03-18-R, DSRPI-03-20-R, DSRPI-03-22-R, DSRPI-03-24-R, DSRPI-03-26-R, DSRPI-03-28-R, DSRPI-03-30-R, DSRPI-03-32-R, DSRPI-03-34-R, DSRPI-03-36-R

(3) Alternate Test Procedure.

Hussmann *shall* test the equipment listed in paragraph (2) per the DOE test procedure set forth in 10 CFR 431.64, except that instead of testing at 38 ± 2 °F (as set forth in the table at 10 CFR 431.64(b)(3)), DOE requires Hussmann to test the commercial refrigerators specified in its January 12, 2012 petition and listed above at an integrated average temperature of 41 ± 2 °F, which Hussmann confirmed is the lowest temperature at which those models can operate and which is consistent with the lowest application product temperature provision in the DOE test procedure.

DOE notes that it has published an amended test procedure for commercial refrigeration equipment. (77 FR 10292, Feb. 21, 2012). The amended test procedure addresses the testing issue addressed in this waiver, requiring products to be tested at their lowest application product temperature. *Id.* Use of the amended test procedure will be required on the compliance date of any amended standards for this equipment.

(4) *Representations*. In making representations about the energy efficiency of its refrigerated display merchandisers listed in paragraph (2), for compliance, marketing, or other purposes, Hussmann *must* fairly disclose the results of testing under the alternate test procedure specified in this waiver.

(5) This waiver amendment *shall* remain in effect from the date this Decision and Order is issued, consistent with the provisions of 10 CFR 431.401(g). DOE notes that it has published an amended test procedure for commercial refrigeration equipment. (77 FR 10292, Feb. 21, 2012). The amended test procedure addresses the testing issue addressed in this waiver, requiring products to be tested at their lowest application product temperature. *Id.* Use of the amended test procedure will be required on the compliance date of any amended standards for this equipment.

(6) This waiver is granted for *only* those models specifically set out in Hussmann's petition, *not* future models that may be manufactured by Hussmann. Hussmann *may* submit a new or amended petition for waiver and request for grant of interim waiver, as appropriate, for additional models for which it seeks a waiver from the DOE test procedure. Grant of this waiver also *does not* release Hussmann from the certification requirements set forth at 10 CFR part 431.

(7) This waiver *is issued* on the condition that the statements, representations, and documentary materials provided by the petitioner are valid. 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.

Issued in Washington, DC, on December 23, 2013.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP14-29-000]

Texas Eastern Transmission, LP; Notice of Application

Take notice that on December 10, 2013 Texas Eastern Transmission, LP (Texas Eastern), at 5400 Westheimer Court, Houston, Texas 77056, filed an application in Docket No. CP14-29-000 pursuant to section 7(b) of the Natural Gas Act (NGA) and Part 157 of the Commission's regulations to abandon in place and by sale certain pipeline facilities located in offshore Gulf of Mexico. Specifically, Texas Eastern proposes to abandon 29.82 miles of 20-inch diameter offshore lateral pipeline, designated as Line 41-A-6, consisting of 14.39 miles proposed for abandonment in place and 15.43 miles proposed for abandonment by sale. Texas Eastern states that there will be no termination or reduction in firm service to any existing customers after the proposed abandonment, all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

This filing is accessible on-line at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email FERCOnlineSupport@ferc.gov, or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Any questions regarding this application should be directed to Berk Donaldson, Director, Rates & Certificates, Texas Eastern Transmission, LP, P.O. Box 1642, Houston, Texas 77251, or by calling (713) 627-4488 (telephone), or fax (713) 627-5947, or email bdonaldson@spectraenergy.com.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final

environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 7 copies of filings made in the proceeding with the Commission and must mail a copy to the applicant and to every other party. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentators will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentators will not be