

DEPARTMENT OF ENERGY

[Case No. CD-003]

Energy Conservation Program for Consumer Products: Publication of the Petition for Waiver and Granting of the Application for Interim Waiver of Whirlpool Corporation From the Department of Energy Clothes Dryer Test Procedures**AGENCY:** Office of Energy Efficiency and Renewable Energy, Department of Energy.**ACTION:** Notice of Petition for Waiver, granting of application for Interim Waiver, and request for comments.

SUMMARY: This notice announces receipt of and publishes Whirlpool Corporation's (Whirlpool's) Petition for Waiver (hereafter, "Petition") from the Department of Energy (DOE) test procedure for determining the energy consumption of residential clothes dryers. The waiver request pertains to Whirlpool's specified single model line of condensing residential clothes dryers. The existing test procedure does not apply to condensing clothes dryers. In addition, today's notice grants Whirlpool an Interim Waiver from the DOE test procedures applicable to residential clothes dryers. DOE is soliciting comments, data, and information with respect to the Whirlpool Petition.

DATES: DOE will accept comments, data, and information with respect to Whirlpool's Petition until, but no later than May 8, 2009.

ADDRESSES: You may submit comments, identified by case number CD-003, by any of the following methods:

Follow the instructions for submitting comments.

- *E-mail:* AS Waiver Requests@ee.doe.gov. Include either the case number CD-003, and/or "Whirlpool Clothes Dryer Petition" in the subject line of the message.

- *Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE-2J, Petition for Waiver Case No. CD-003, 1000 Independence Avenue, SW., Washington, DC 20585-0121. Telephone: (202) 586-2945. Please submit one signed original paper copy.

- *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, 950 L'Enfant Plaza, SW., Suite 600, Washington, DC 20024. Please submit one signed original paper copy.

Instructions: All submissions received must include the agency name and case number for this proceeding. Submit

electronic comments in WordPerfect, Microsoft Word, Portable Document Format (PDF), or text (American Standard Code for Information Exchange (ASCII)) file format. Avoid the use of special characters or any form of encryption. Wherever possible, include the electronic signature of the author. Absent an electronic signature, comments submitted electronically must be followed and authenticated by submitting the signed original paper document. DOE does not accept telefacsimiles (faxes).

Pursuant to section 430.27(b)(1)(iv) of 10 CFR Part 430, any person submitting written comments must also send a copy of the comments to the petitioner. The contact information for the petitioner is: Mr. J. B. Hoyt, Director, Government Relations, Whirlpool Corporation, 2000 M 63, Mail Drop 3005, Benton Harbor, Michigan 49022.

Under 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit two copies: One copy of the document including all the information believed to be confidential, and one copy of the document with the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

Docket: For access to the docket to review the documents relevant to this matter, you may visit the U.S. Department of Energy, 950 L'Enfant Plaza, SW., (Resource Room of the Building Technologies Program), Washington, DC 20024, (202) 586-9127, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Please call Ms. Brenda Edwards at (202) 586-2945 for additional information regarding visiting the Resource Room. Please note that the DOE's Freedom of Information Reading Room (formerly Room 1E-190 in the Forrestal Building) is no longer housing rulemaking materials.

FOR FURTHER INFORMATION CONTACT: Dr. Michael G. Raymond, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, Mail Stop EE-2J, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585-0121, (202) 586-9611; e-mail: AS_Waiver_Requests@ee.doe.gov; Francine Pinto or Michael Kido, U.S. Department of Energy, Office of General Counsel, Mail Stop GC-72, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585-0121, (202) 586-9507; e-mail:

Francine.Pinto@hq.doe.gov or Michael.Kido@hq.doe.gov.

SUPPLEMENTARY INFORMATION:

- I. Background and Authority
- II. Petition for Waiver
- III. Application for Interim Waiver
- IV. Summary and Request for Comments

I. Background and Authority

Title III of the Energy Policy and Conservation Act, as amended ("EPCA") sets forth a variety of provisions concerning energy efficiency. Part A¹ of Title III provides for the "Energy Conservation Program for Consumer Products Other Than Automobiles." (42 U.S.C. 6291-6309) Part A includes definitions, test procedures, labeling provisions, energy conservation standards, and the authority to require information and reports from manufacturers. Further, Part A authorizes the Secretary of Energy to prescribe test procedures that are reasonably designed to produce results which measure energy efficiency, energy use, or estimated operating costs, and that are not unduly burdensome to conduct. (42 U.S.C. 6293(b)(3)) The test procedure for residential clothes dryers is contained in 10 CFR part 430, subpart B, appendix D.

The regulations set forth in 10 CFR 430.27 contain provisions that enable a person to seek a waiver from the test procedure requirements for covered consumer products. A waiver will be granted by the Assistant Secretary for Energy Efficiency and Renewable Energy (the Assistant Secretary) if it is determined that the basic model for which the Petition for Waiver was submitted contains one or more design characteristics that prevents testing of the basic model according to the prescribed test procedures, or if the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption characteristics as to provide materially inaccurate comparative data. 10 CFR 430.27(a)(1). Petitioners must include in their petition any alternate test procedures known to evaluate the basic model in a manner representative of its energy consumption. 10 CFR 430.27(b)(1)(iii). The Assistant Secretary may grant the waiver subject to conditions, including adherence to alternate test procedures. 10 CFR 430.27(l). In general, waivers remain in effect until the effective date of a final rule which prescribes amended test procedures appropriate to the model series manufactured by the

¹ This part was originally titled Part B but it was redesignated Part A in the United States Code for editorial reasons.

petitioner, thereby eliminating any need for the continuation of the waiver. 10 CFR Part 430.27(m).

The waiver process also allows the 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. (10 CFR 430.27(a)(2)) An Interim Waiver remains in effect for a period of 180 days or until DOE issues its determination on the Petition for Waiver, whichever is sooner, and may be extended for an additionally 180 days, if necessary. (10 CFR 430.27(h))

II. Petition for Waiver

On May 12, 2008, Whirlpool filed a Petition for Waiver and an Application for Interim Waiver from the test procedures applicable to its residential clothes dryers set forth in 10 CFR part 430, subpart B, appendix D. Whirlpool seeks a waiver from the applicable test procedures for its WCD7500VW basic product model because, Whirlpool asserts, design characteristics of this model prevent testing according to the currently prescribed test procedures. DOE previously granted Miele Appliance, Inc. (Miele), a waiver from test procedures for two similar condenser clothes dryer models (T1565CA and T1570C). (60 FR 9330 (Feb. 17, 1995)) Whirlpool claims that its condenser clothes dryers cannot be tested pursuant to the DOE procedure and requests that the same waiver granted to Miele in 1995 be granted for Whirlpool's WCD7500VW model.

In support of its petition, Whirlpool claims that the current clothes dryer test procedures apply only to vented clothes dryers because the test procedures require the use of an exhaust restrictor on the exhaust port of the clothes dryer during testing. Because condenser clothes dryers operate by blowing air through the wet clothes, condensing the water vapor in the airstream, and pumping the collected water into either a drain line or an in-unit container, these products do not use an exhaust port like a vented dryer does. Whirlpool plans to market a condensing clothes dryer for situations in which a conventional vented clothes dryer cannot be used, such as high-rise apartments and condominiums, neither of whose construction permits the use of external venting.

The Whirlpool Petition requests that DOE grant a waiver from existing test procedures to allow the sale of one model (WCD7500VW) without testing until DOE prescribes final test procedures and minimum energy conservation standards appropriate to

condenser clothes dryers. Whirlpool did not include an alternate test procedure in its petition.

III. Application for Interim Waiver

The Whirlpool Petition also requests an Interim Waiver for immediate relief. An Interim Waiver may 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 of the Petition for Waiver. 10 CFR 430.27(g).

Whirlpool's Application for Interim Waiver does not provide sufficient information to permit DOE to evaluate the economic hardship Whirlpool might experience absent a favorable determination on its Application for Interim Waiver. Public policy would tend, however, to favor granting Whirlpool an Interim Waiver, pending determination of the Petition for Waiver. DOE previously granted Miele a waiver from the clothes dryer test procedure after determining that it was not applicable to the company's condenser clothes dryers because they lack an exhaust port for mounting the required exhaust restrictor, which is an element of the test procedure. In addition, DOE indicated that Miele's condenser dryers would not have to meet the applicable energy efficiency standards because their added utility justified their higher energy consumption compared to traditional clothes dryers, and because the test procedures were not applicable. See 60 FR 9332.

Subsequently, in 2008, DOE granted LG a similar waiver for its DLEC733W condenser clothes dryer, allowing sale without testing or meeting the energy conservation standards. (73 FR 66641 (Nov. 10, 2008)) DOE reasoned that LG's situation was analogous to Miele's and noted that although it would have been feasible to provide an alternate test method for LG to follow, doing so would carry the risk of driving a type of product with unique consumer utility from the market. 73 FR 66642.

Therefore, in light of the long-standing waiver granted to Miele, and the recent waiver to LG, DOE has decided to grant Whirlpool's application for Interim Waiver from testing of its condenser clothes dryers. This granting of Interim Waiver may be modified at any time upon a determination that the factual basis underlying the application is incorrect.

V. Summary and Request for Comments

Through today's notice, DOE announces receipt of Whirlpool's Petition for Waiver and grants Whirlpool an Interim Waiver from the test procedures applicable to Whirlpool's WCD7500VW model condensing clothes dryer. DOE is publishing the Whirlpool Petition for Waiver in its entirety pursuant to 10 CFR 430.27(b)(1)(iv). The Petition contains no confidential information. DOE is interested in receiving comments on all aspects of the Petition. Pursuant to 10 CFR 430.27(b)(1)(iv), any person submitting written comments to DOE must also send a copy of such comments to the petitioner, whose contact information is included in the **ADDRESSES** section above.

Issued in Washington, DC, on March 30, 2009.

Steven G. Chalk,

Principal Deputy Assistant Secretary, Energy Efficiency and Renewable Energy.



2000 M 63, Mail Drop 3005, Benton Harbor, Michigan 49022, Phone: 269/923-4647, j.b.hoyt@whirlpool.com

J.B. Hoyt,
Director, Government Relations,
May 12, 2008.

Mr. Alexander Karsner,
Assistant Secretary, Energy Efficiency and
Renewable Energy, U.S. Department of
Energy, Forrestal Building, 1000
Independence Avenue, SW, Washington,
DC 20585.

Re: Application for Interim Waiver and
Petition for Waiver, 10 CFR 430, Subpart B,
Appendix D—Uniform Test Method for
Measuring the Energy Consumption of
Clothes Dryers

Dear Assistant Secretary Karsner:

Whirlpool Corporation hereby submits this Application for Interim Waiver and Petition for Waiver pursuant to Title 10 CFR Sec. 430.27. This section provides for waiver of test methods on the grounds that a basic model contains design characteristics that either prevents testing according to the prescribed test procedure or produce data so unrepresentative of a covered product's true energy consumption characteristics as to provide materially inaccurate comparative data.

Whirlpool Corporation is a global manufacturer and marketer of major home appliances. As such, we have identified a segment of U.S. households that are unable to utilize conventional clothes dryers. This segment consists of high-rise apartments and condominiums and other housing units whose construction does not allow for external venting, at least not without

considerable remodeling or construction expense.

Whirlpool does not currently offer any condensing dryer for sale in the United States. To address the needs of this market segment it is our intent to import a 24" wide compact (3.7 cubic feet) condensing dryer manufactured by Antonio Merloni, spA; the unit will be manufactured in Fabriano, Italy. This clothes dryer will comply with all recognized United States safety standards. Our marketing plans call for this product to be launched not later than the fourth quarter of 2008.

The existing test procedure, 10 CFR 430, Subpart B, Appendix D, was developed specifically for externally vented clothes dryers. One requirement is that a specific exhaust restriction be placed on the exhaust port of the dryer during the test. Condensing clothes dryers do not have an exhaust port to which a restriction can be attached. Therefore, the existing test procedure is not applicable. Indeed, the Department recognized this lack of applicability in the decision to grant a similar waiver to Miele Appliances, Incorporated (Case Number CD-001, 60FR930).

In light of this situation, Whirlpool requests an Interim Waiver and Waiver that will allow sale of one model without testing under 10 CFR, Subpart B, Appendix D until such time as that test procedure has language applicable to condensing clothes dryers. That model will be Whirlpool brand clothes dryer model WCD7500VW. Only a relatively small number of this clothes dryer will be sold by Whirlpool Corporation.

Additionally, Whirlpool commits to actively supporting the inclusion of a test procedure applicable to condensing dryers in future versions of 10 CFR 430, Subpart B, Appendix D. Indeed we are already working closely with the appliance trade association, the Association of Home Appliance Manufacturers, on a proposal for inclusion in the Department's current clothes dryer energy standards rulemaking.

Standards should not be used as a means to block innovative, improved designs. (See FTC Advisory Opinion No. 457, TRR 1718.20 (1971 Transfer Binder); 49 Fed. Reg. 32213 (Aug. 13, 1984); 52 Fed. Reg. 49141, 49147-48 (Dec. 30, 1987).) Whirlpool's design is an innovative way to dry a load of laundry and provides substantial benefits to the public. DOE's rules should accommodate and encourage—not act to block—such a product.

Condensing dryers are common in Europe. Granting the Interim Waiver and Waiver will also eliminate a non-tariff trade barrier.

Thank you for your timely attention to this request for Interim Waiver and Waiver. We hereby certify that all clothes dryer manufacturers of domestically marketed units known to Whirlpool Corporation have been notified by letter of this application, per copies of this letter.

Sincerely,
J.B. Hoyt.

[FR Doc. E9-7945 Filed 4-7-09; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

April 1, 2009.

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC09-64-000.

Applicants: PPL Shoreham Energy, LLC, PPL Generation, LLC, PPL New Jersey Solar, LLC, PPL New Jersey Biogas, LLC., PPL Renewable Energy, LLC.

Description: Application for Authorization Under Section 203 of the Federal Power Act, Request for Waivers of Filing Requirements and Expedited Treatment of Application of PPL Shoreham Energy, LLC, *et al.*

Filed Date: 03/31/2009.

Accession Number: 20090331-5225.

Comment Date: 5 p.m. Eastern Time on Tuesday, April 21, 2009.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG09-34-000.

Applicants: PPL New Jersey Solar, LLC.

Description: PPL New Jersey Solar, LLC Notice of Self Certification of Exempt Wholesale Generator Status.

Filed Date: 03/31/2009.

Accession Number: 20090331-5215.

Comment Date: 5 p.m. Eastern Time on Tuesday, April 21, 2009.

Docket Numbers: EG09-35-000.

Applicants: PPL New Jersey Biogas, LLC.

Description: PPL New Jersey Biogas, LLC. Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 03/31/2009.

Accession Number: 20090331-5219.

Comment Date: 5 p.m. Eastern Time on Tuesday, April 21, 2009.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER98-511-010.

Applicants: Oklahoma Gas and Electric Company, OGE Energy Resources, Inc.

Description: Oklahoma Gas and Electric Company submits Substitute Original Sheet 1 to FERC Electric Tariff, Sixth Revised Volume 3.

Filed Date: 03/26/2009.

Accession Number: 20090401-0049.

Comment Date: 5 p.m. Eastern Time on Thursday, April 16, 2009.

Docket Numbers: ER06-743-002.

Applicants: Air Liquide Large Industries U.S. LP.

Description: Amendment to Application for Determination of Category 1 Seller Status of Air Liquide Large Industries U.S. LP.

Filed Date: 03/31/2009.

Accession Number: 20090331-5228.

Comment Date: 5 p.m. Eastern Time on Tuesday, April 21, 2009.

Docket Numbers: ER06-771-002;

ER06-772-002; ER06-773-002.

Applicants: ExxonMobil Baton Rouge Complex, ExxonMobil Beaumont Complex, ExxonMobil Labarge Shute Creek Treating.

Description: ExxonMobil Entities submits Original Sheet No. 1 *et al.* to FERC Electric Tariff, Original Volume No. 1.

Filed Date: 03/26/2009.

Accession Number: 20090401-0048.

Comment Date: 5 p.m. Eastern Time on Thursday, April 16, 2009.

Docket Numbers: ER07-1040-004;

ER00-2603-007; ER94-142-031

Applicants: Hopewell Cogeneration Ltd Partnership, Syracuse Energy Corporation, SUEZ Energy Marketing NA, Inc.

Description: Notice of Non-Material Change in Status of Hopewell Cogeneration Limited Partnership.

Filed Date: 03/30/2009.

Accession Number: 20090330-5154.

Comment Date: 5 p.m. Eastern Time on Monday, April 20, 2009.

Docket Numbers: ER08-73-003.

Applicants: California Independent System Operator Corporation.

Description: California Independent System Operator Corporation submits Original Sheet 746A to FERC Electric Tariff, Fourth Replacement Volume 11.

Filed Date: 03/26/2009.

Accession Number: 20090331-0047.

Comment Date: 5 p.m. Eastern Time on Thursday, April 16, 2009.

Docket Numbers: ER08-830-001.

Applicants: ISO New England Inc. & New England Power Pool.

Description: ISO New England Inc *et al* submit reports regarding treatment of price-responsive demand in the New England Electricity Markets.

Filed Date: 03/27/2009.

Accession Number: 20090331-0046.

Comment Date: 5 p.m. Eastern Time on Friday, April 17, 2009.

Docket Numbers: ER08-891-002.

Applicants: Wisconsin Power and Light Company.

Description: Alliant Energy Corporate Services, Inc submits revised sheets reflecting Service Agreement 1 modification.

Filed Date: 03/27/2009.

Accession Number: 20090331-0051.

Comment Date: 5 p.m. Eastern Time on Friday, April 17, 2009.