

dolphins, 51 bottlenose dolphins, and 21 unidentified cetacean species. Most of the cetaceans were sighted either outside the take zone or before the Navy exercise, and were not expected to be affected. Only one bottlenose dolphin was sighted approximately 68 yards from the vessel during a break between the 1st and 2nd round of FIREX event. No unusual behavior was observed from the bottlenose dolphin, and the area was monitored for 30 minutes after the sighting, without the animal being sighted again, before training activities were resumed.

#### *Integrated Comprehensive Management Program (ICMP) Plan*

The ICMP will be used both as: (1) A planning tool to focus Navy monitoring priorities (pursuant to ESA/MMPA requirements) across Navy Range Complexes and Exercises; and (2) an adaptive management tool, through the consolidation and analysis of the Navy's monitoring and marine observer data, as well as new information from other Navy programs (e.g., research and development), and other appropriate newly published information. The Navy updated its 2010 ICMP Plan and will comply with the Plan. The ICMP may be viewed at: <http://www.nmfs.noaa.gov/pr/permits/incidental.htm>.

#### *NOAA Workshops*

In a January 19, 2010, letter to the Council on Environmental Quality, NOAA identified the need for two interrelated workshops on marine mammals and sound in the ocean. To address this commitment, NOAA is convening two parallel, focused, relatively small, and product-driven working groups. One will identify and map cetacean "hot spots", defined as areas of known, or reasonably predictable, biological importance (*i.e.*, for reproduction, feeding, migration) and/or high densities. The second working group will be directed toward developing a comprehensive data collection and analysis plan for describing and predicting underwater sound fields in different areas. The outcomes of these working groups will be integrated and analyzed in a broader follow-on symposium to include a larger audience of scientists, industries, federal agencies, conservation managers, and environmental NGOs. The final products and analyses will provide a more robust, comprehensive, and context-specific biological and acoustic basis by which to inform subsequent management decisions regarding human noise in our oceans. The steering committee has been convened and met for the first time in October 2010. Both

working groups had their first meeting in March 2011 in Boston, MA. The working group efforts should take about a year to complete, and we expect the final symposium to be held in early 2012. The results of these working groups will be analyzed by NMFS in an adaptive management context, as related to the three east coast training ranges final rules, and mitigation or monitoring measures may be modified, as appropriate.

#### *Adaptive Management*

NMFS and the Navy conducted an adaptive management meeting in October 2010 wherein we reviewed the Navy monitoring results through August 1, 2010, discussed other Navy research and development efforts, and discussed other new information that could potentially inform decisions regarding Navy mitigation and monitoring. Based on the review, NMFS determines that the Navy's current monitoring plans for the VACAPES, JAX, and CHPT range complexes are robust and no changes are warranted.

In terms of the Navy's proposed modification for its future training activities, NMFS conducted a thorough analysis and issued an interim final rule to allow flexibility in the Navy's training program, as long as the effects on marine mammal species and their habitat are within the scope of NMFS' analysis conducted in 2009 for the initial final rules governing authorization of these actions (see Planned Activities for 2011 section above).

#### **Authorization**

The Navy complied with the requirements of the 2010 LOAs. Based on our review of the record, NMFS has determined that the marine mammal take resulting from the 2010 military readiness training and research activities falls within the levels previously anticipated, analyzed, and authorized, and was likely lower given the fact that Navy conducted fewer operations in 2010 than originally planned. Further, the level of taking authorized in 2011 for the Navy's training exercises at VACAPES, JAX, and CHPT range complexes is consistent with our previous findings made for the total taking allowed under these range complexes regulations. Finally, the record supports NMFS' conclusion that the total number of marine mammals taken by the 2011 training exercises at VACAPES, JAX, and CHPT range complexes will have no more than a negligible impact on the affected species or stock of marine mammals and will not have an unmitigable adverse impact

on the availability of these species or stocks for taking for subsistence uses. Accordingly, NMFS has issued three one-year LOAs for Navy training exercises conducted at these East Coast range complexes from June 5, 2011, through June 4, 2012.

Dated: June 1, 2011.

**James H. Lecky,**

*Director, Office of Protected Resources,  
National Marine Fisheries Service.*

[FR Doc. 2011-14148 Filed 6-7-11; 8:45 am]

**BILLING CODE 3510-22-P**

---

## **DEPARTMENT OF DEFENSE**

### **Department of the Navy**

#### **Cancellation of the Notice of Intent To Prepare a Programmatic Environmental Impact Statement for the Proposed Geothermal Development Program, Naval Air Facility El Centro, Imperial County, CA**

**AGENCY:** Department of the Navy, DoD.

**ACTION:** Notice.

**SUMMARY:** The Department of the Navy (DoN) announces the cancellation of its Notice of Intent to prepare a Programmatic Environmental Impact Statement (PEIS) for the proposed Geothermal Development Program, Naval Air Facility El Centro, Imperial County, CA, as published in the **Federal Register**, May 5, 2008 (73 FR 87). It has been determined that preparation of a PEIS is not appropriate at this time when considering the current project scale and stage of geothermal energy development at Superstition Mountain on Naval Air Facility El Centro. The DoN will develop an internal document known as an environmental and operational feasibility study. This internal document will analyze the environmental and operational framework within which a geothermal development may proceed and will provide the DoN with information required to determine the DoN's geothermal energy program needs at Naval Air Facility El Centro. Should geothermal development be indicated as feasible and a project to be developed, the appropriate level of National Environmental Policy Act analysis and process will be performed.

**FOR FURTHER INFORMATION CONTACT:**

Steven Bjornstad, United States Navy Geothermal Program Office (PW-8), Naval Air Weapons Station, 429 East Bowen Road, Mail Stop 4011, China Lake, CA 93555-6108, telephone: 760-939-4048, e-mail:

[steven.bjornstad@navy.mil](mailto:steven.bjornstad@navy.mil).

Dated: June 1, 2011.

**D. J. Werner,**

*Lieutenant Commander, Judge Advocate  
General's Corps, U.S. Navy, Federal Register  
Liaison Officer.*

[FR Doc. 2011-14066 Filed 6-7-11; 8:45 am]

**BILLING CODE 3810-FF-P**

## DEPARTMENT OF ENERGY

### Office of Energy Efficiency and Renewable Energy

[Case No. CD-006]

#### Energy Conservation Program for Consumer Products: Decision and Order Granting a Waiver to BSH Home Appliances Corporation from the Department of Energy Residential Clothes Dryer 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. CD-006)  
that grants to BSH Home Appliances  
Corporation (BSH) a waiver from the  
DOE clothes dryer test procedure. The  
waiver pertains to the specified models  
of condensing residential clothes dryer  
specified in BSH's petition. Condensing  
clothes dryers cannot be tested using the  
currently applicable DOE test  
procedure. Under today's decision and  
order, BSH shall be not be required to  
test and rate its specified models of  
residential condensing clothes dryer  
pursuant to this test procedure.

**DATES:** This Decision and Order is  
effective June 8, 2011.

**FOR FURTHER INFORMATION CONTACT:** Dr.  
Michael G. Raymond, U.S. Department  
of Energy, Building Technologies  
Program, Mailstop EE-2J, 1000  
Independence Avenue, SW.,  
Washington, DC 20585-0121.  
*Telephone:* (202) 586-9611; *E-mail:*  
*AS\_Waiver\_Requests@ee.doe.gov.*

Ms. Elizabeth Kohl, U.S. Department  
of Energy, Office of General Counsel,  
Mail Stop GC-71, 1000 Independence  
Avenue, SW., Washington, DC 20585-  
0103, (202) 586-7796; *E-mail:*  
*Elizabeth.Kohl@hq.doe.gov.*

**SUPPLEMENTARY INFORMATION:** In  
accordance with Title 10 of the Code of  
Federal Regulations (10 CFR), Section  
430.27(l), DOE gives notice of the  
issuance of its decision and order as set  
forth below. The decision and order  
grants BSH a waiver from the applicable  
residential clothes dryer test procedure  
at 10 CFR part 430 subpart B, appendix

D, for the two models of condensing  
clothes dryer specified in its petition.

DOE notes that it has promulgated a  
final test procedure for clothes dryers  
that provides a mechanism for testing  
condensing clothes dryers. (76 FR 972,  
January 6, 2011). Use of this test  
procedure will be required on the  
compliance date of any amended  
standards for clothes dryers. DOE has  
also published a direct final rule  
establishing amended standards for  
clothes dryers, which establishes  
standards for condensing clothes dryers.  
(76 FR 22454, April 21, 2011). Absent  
adverse comment that the Secretary  
determines may provide a reasonable  
basis for withdrawal of the direct final  
rule, DOE has proposed that the  
standards would become effective on  
January 1, 2015. (76 FR 26656, May 9,  
2011). Use of the final test procedure  
would also be required on that date.

Issued in Washington, DC, on May 31,  
2011.

**Kathleen Hogan,**

*Deputy Assistant Secretary for Energy  
Efficiency, Office of Technology  
Development, Energy Efficiency and  
Renewable Energy.*

#### Decision and Order

In the Matter of: BSH Home  
Appliances Corporation (Case No. CD-  
006).

#### Background

Title III, Part B of the Energy Policy  
and Conservation Act of 1975 (EPCA),  
Public Law 94-163 (42 U.S.C. 6291-  
6309, as codified) established the  
Energy Conservation Program for  
Consumer Products Other Than  
Automobiles, a program covering most  
major household appliances, which  
includes the residential clothes washers  
that are the focus of this notice.<sup>1</sup> Part B  
includes definitions, test procedures,  
labeling provisions, energy conservation  
standards, and the authority to require  
information and reports from  
manufacturers. Further, Part B  
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 clothes dryers is  
contained in 10 CFR part 430, subpart  
B, appendix D.

DOE's regulations contain provisions  
allowing a person to seek a waiver from  
the test procedure requirements for  
covered consumer products 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  
procedure, or (2) when 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 the petitioner to  
evaluate the basic model in a manner  
representative of its energy  
consumption characteristics. 10 CFR  
430.27(b)(1)(iii).

The Assistant Secretary for Energy  
Efficiency and Renewable Energy (the  
Assistant Secretary) may grant a waiver  
subject to conditions, including  
adherence to alternate test procedures.  
10 CFR 430.27(l). Waivers remain in  
effect pursuant to the provisions of 10  
CFR 430.27(m).

The waiver process also allows any  
interested person who has submitted a  
petition for waiver to file an application  
for an interim waiver of the applicable  
test procedure requirements. 10 CFR  
430.27(a)(2). The Assistant Secretary  
will grant an interim waiver request if  
it is determined that the applicant will  
experience economic hardship if the  
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. 10 CFR 430.27(g).

On December 28, 2009, BSH filed a  
petition for waiver from the test  
procedures applicable to its Bosch  
WTC82100US and Bosch WTE86300US  
product models of condensing clothes  
dryer. The applicable test procedures  
are contained in 10 CFR part 430,  
subpart B, appendix D—Uniform Test  
Method for Measuring the Energy  
Consumption of Clothes Dryers. BSH  
seeks a waiver from the applicable test  
procedure for its Bosch WTC82100US  
and Bosch WTE86300US product  
models because, BSH asserts, design  
characteristics of these models prevent  
testing according to the currently  
prescribed test procedure, as described  
in greater detail in the following  
paragraph.

In support of its petition, BSH 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

<sup>1</sup> For editorial reasons, upon codification in the  
U.S. Code, Part B was re-designated Part A.