for 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 May 12, 2008, Whirlpool filed a petition for waiver from the test procedures applicable to its single model (WCD7500VW) 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. 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.

Assertions and Determinations

Whirlpool's Petition for Waiver

On May 12, 2008, Whirlpool filed a Petition for Waiver from the test procedure applicable to residential clothes dryers set forth in 10 CFR Part 430, subpart B, appendix D for a particular model of condensing clothes dryer. On April 8, 2009, DOE published Whirlpool's Petition for Waiver and granted Whirlpool an interim waiver from the current test procedure. 74 FR 15959. DOE did not receive any comments on the Whirlpool petition.

DOE previously granted Miele a waiver from test procedures for condensing clothes dryers after determining that the clothes dryer test procedure was not applicable to the company's condenser clothes dryers because of the lack of an exhaust port for mounting the required exhaust restrictor, which is an element of the test procedure. 60 FR 9332 (February 17, 1995). Subsequently, in 2008, DOE granted LG a similar waiver for its DLEC733W condenser clothes dryer. 73 FR 66641 (Nov. 10, 2008).

Therefore, for the reasons discussed above and in light of the long-standing waiver granted to Miele, and the recent waiver to LG, DOE grants Whirlpool's Petition for Waiver from testing of its condenser clothes dryers.

Consultations With Other Agencies

DOE consulted with the Federal Trade Commission (FTC) staff concerning the Whirlpool Petition for waiver. The FTC staff did not have any objections to granting a waiver to Whirlpool.

Conclusion

After careful consideration of all the material that was submitted by Whirlpool and consultation with the FTC staff, it is ordered that:

(1) The ''Petition for Waiver'' submitted by Whirlpool Corporation (Case No. CD–003) is hereby granted as set forth in the paragraphs below.

(2) Whirlpool shall not be required to test or rate its WCD7500VW condensing clothes dryer product on the basis of the test procedures at 10 CFR Part 430, subpart B, appendix D.

(3) This waiver shall remain in effect from the date of this Decision and Order consistent with the provisions of 10 CFR 430.27(m).

(4) This waiver is conditioned upon the presumed validity of statements, representations, and documentary materials provided by the petitioner. This waiver may be revoked or modified at any time upon a determination that the factual basis underlying the Petition for Waiver is incorrect.

Issued in Washington, DC, on December 8, 2009.

Cathy Zoi,

Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. E9–29777 Filed 12–14–09; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[Case No. CD–004]

Energy Conservation Program for Consumer Products: Publication of the Petition for Waiver and Granting of the Application for Interim Waiver of the General Electric Company 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 the General Electric Company's (GE's) Petition for Waiver (hereafter, ''petition'') from the U.S. Department of Energy (DOE) test procedure for determining the energy consumption of residential clothes dryers. The waiver request pertains to GE'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 GE an interim waiver from the DOE test procedures applicable to residential clothes dryers. DOE solicits comments, data, and information with respect to GE's petition.

DATES: DOE will accept comments, data, and information with respect to GE's Petition until, but no later than January 14, 2010.

ADDRESSES: You may submit comments, identified by case number CD–004, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail: AS_Waiver_Requests@ee.doe.gov.* Include either the case number [CD–004], and/or ''GE 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–004, 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. 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. Earl F. Jones, Senior Counsel, GE Consumer & Industrial, Appliance Park 2–225, Louisville, KY 40225.

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.

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 A 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 Title 10 of the Code of Federal Regulations (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(l). Petitioners must include in their petition any alternate test procedures known to the petitioner 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). Waivers remain in effect pursuant to the provisions of 10 CFR 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 July 14, 2009, GE 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. GE seeks a waiver from the applicable test procedures for its DCVH480E* and DCVH485E* product models (the two models differ only in color) because, GE asserts, design characteristics of this model prevent testing according to the currently prescribed test procedures, as described in more detail in the following paragraph. 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)) DOE also granted waivers for the same type of clothes dryers to LG Electronics (73 FR 66641, November 10, 2008) and Whirlpool Corporation (74 FR 15959, April 8, 2009). GE claims that its condenser clothes dryers cannot be tested pursuant to the DOE procedure and requests that the same waiver granted to other manufacturers be granted for GE's DCVH480E* and DCVH485E* models.

In support of its petition, GE 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. GE 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; the construction of these types of buildings does not permit the use of external venting.

The GE Petition requests that DOE grant a waiver from existing test procedures to allow the sale of two models (DCVH480E* and DCVH485E*) without testing until DOE prescribes final test procedures and minimum energy conservation standards appropriate to condenser clothes dryers. Similar to the other manufacturers, GE

did not include an alternate test procedure in its petition.

III. Application for Interim Waiver

The GE petition also requests an interim waiver for immediate relief. Under 10 CFR 430.27(b)(2) each application for interim waiver ''shall demonstrate likely success of the Petition for Waiver and shall address what economic hardship and/or competitive disadvantage is likely to result absent a favorable determination on the Application for Interim Waiver.'' 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).

DOE determined that GE's application for interim waiver does not provide sufficient market, equipment price, shipments, and other manufacturer impact information to permit DOE to evaluate the economic hardship GE might experience absent a favorable determination on its application for interim waiver. However, DOE understands that absent an interim waiver, GE's products would not otherwise be tested and rated for energy consumption on a comparable basis with equivalent products for which DOE previously granted waivers. In other words, there would not be a level playing field and thus GE would be placed at a competitive disadvantage. Furthermore, DOE has determined that GE is likely to succeed on the merits of its petition for waiver and that it is desirable for policy reasons to grant immediate relief. DOE has concluded that it is in the public interest to have similar products tested and rated for energy consumption on a comparable basis, where possible. In addition, DOE has previously granted a number of waivers for similar products. 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. DOE also granted LG a similar waiver for its DLEC733W condenser clothes dryer. (73 FR 66641 (Nov. 10, 2008)) Still more recently, on April 8, 2009, DOE granted an interim waiver to Whirlpool Corporation for a very similar condenser clothes dryer (74 FR 15959).

Therefore, in light of the long-standing waiver granted to Miele, and the recent waivers to LG and Whirlpool, DOE has decided to grant GE's application for Interim Waiver from testing of its condenser clothes dryers. This interim waiver is conditioned upon the presumed validity of statements, representations, and documents provided by the petitioner. DOE may revoke or modify this interim waiver at any time upon a 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.

IV. Summary and Request for Comments

Through today's notice, DOE announces receipt of GE's petition for waiver and grants GE an interim waiver from the test procedures applicable to GE's DCVH480E* and DCVH485E* condensing clothes dryer models. DOE is publishing the GE Petition for Waiver pursuant to 10 CFR 430.27(b)(1)(iv). The petition as published 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 December 8, 2009.

Cathy Zoi,

Assistant Secretary, Energy Efficiency and Renewable Energy.

U.S. Department of Energy

Application for Interim Waiver and Petition for Waiver, 10CFR430, Subpart B, Appendix D—Uniform Test Method for Measuring the Energy Consumption of Clothes Dryers

Case No.

Non-Confidential Version

Submitted by:

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U.S. Department of Energy Application for Interim Waiver and Petition for Waiver, 10CFR430, Subpart B, Appendix D—Uniform Test Method for Measuring the Energy Consumption of Clothes Dryers

Introduction

GE Consumer & Industrial, an operating division of General Electric Co., (''GE'') is a leading manufacturer and marketer of household appliances, including, as relevant to this proceeding, clothes dryers, files this Application for Interim Waiver and Petition for Waiver (''Petition''). GE requests that the Assistant Secretary grant it a waiver from certain parts of the test procedure promulgated by the U.S. Department of Energy (''DOE'' or ''the Department'') for determining clothes dryer energy consumption on the grounds that the basic design of the product prevents testing in accordance with the prescribed test procedure. This request is filed pursuant to 10 C.F.R. § 430.27.

GE plans to market a clothes dryer to U.S. consumers whose homes cannot accommodate externally vented clothes dryer, e.g., high-rise apartments and condominiums among others. In 2008, the U.S. Market for such products was approximately 50,000.

GE plans to import a 24″ wide compact (4.0 cubic feet) condensing dryer manufactured by [redacted]. 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 2009.

Need for Relief

The existing test procedure, 10CFR430, Subpart B, Appendix D, was developed for externally vented clothes dryers. The requirement that a specific exhaust restriction be placed on the exhaust port of the dryer during the test cannot be complied with during the testing of condensing clothes dryers, which do not have an exhaust port. 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 (60FR930) and most recently Whirlpool Corp. (75FR15959).

GE hereby requests an Interim Waiver and Waiver that will allow sale of one model without testing under 10 C.F.R., Subpart B. Appendix D until such time as that test procedure has language applicable to condensing clothes dryers. That model will be General Electric

brand clothes dryer models DCVH480E*, and DCVH485E*[1].

Additionally, GE commits to actively support the inclusion of a test procedure applicable to condensing dryers in future versions of 10CFR430, Subpart B, Appendix D and is working 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.

Thank you for your timely attention to this request for Interim Waiver and Waiver.

Respectfully submitted,

Earl F. Jones, Authorized Representative of GE Consumer & Industrial

CERTIFICATION

I hereby certify that GE has notified all clothes dryer manufacturers listed below known to GE to sell products in the United States and forwarded them a copy of this application:

Alliance Laundry Systems, Inc., BSH Home Appliances Corp. (Bosch-Siemens Hausgerate GmbH), Electrolux Home Products, Fisher & Paykel Appliances, Inc., Haier America Trading, L.L.C., LG Electronics USA INC., Miele Appliances, Inc., Samsung Electronics America, Inc. and Whirlpool Corporation.

In addition, GE has provided courtesy copies to: The Association of Home Appliance Manufacturers (AHAM), which is generally interested in DOE proceedings affecting the industry. ACEEE, NRDC and Alliance to Save Energy are not manufacturers but have an interest in energy efficiency requirements for appliances.

Earl F. Jones

[FR Doc. E9–29782 Filed 12–14–09; 8:45 am]

BILLING CODE 6450–01–P

[1] In the above models, the 0 in model DCVH480E* represents the color white, and the 5 in model DCVH485E represents the color silver. The * would be replaced by a letter depending on the year of manufacture and the other non-energy related identifiers.

DEPARTMENT OF ENERGY

[Case No. RF–009]

Energy Conservation Program for Consumer Products: Decision and Order Granting a Waiver to Electrolux Home Products, Inc. From the Department of Energy Residential Refrigerator and Refrigerator-Freezer Test Procedure (Case No. RF–009)

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. RF–009) that grants to Electrolux Home Products, Inc. (Electrolux) a Waiver from the DOE electric refrigerator and refrigerator-freezer test procedure, for certain basic models containing relative humidity sensors and adaptive control anti-sweat heaters. Under today's Decision and Order, Electrolux shall be required to test and rate its refrigerator-freezers with adaptive control anti-sweat heaters according to an alternate test procedure that takes this technology into account when measuring energy consumption.

DATES: This Decision and Order is effective December 15, 2009.

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*. Francine Pinto, or Michael Kido, U.S. Department of Energy, Office of General Counsel, Mail Stop GC–72, 1000 Independence Avenue, SW., Washington, DC 20585–0103, (202) 586–9507; E-mail: *Francine.Pinto@hq.doe.gov* or *Michael.Kido@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: In accordance with Title 10 of the Code of Federal Regulations (10 CFR) 430.27(l), DOE gives notice of the issuance of its Decision and Order as set forth below. The Decision and Order grants Electrolux a Waiver from the applicable residential refrigerator and refrigerator-freezer test procedures at 10 CFR Part 430 subpart B, appendix A1, for certain basic models of refrigerator-freezers with relative humidity sensors and adaptive control anti-sweat heaters, provided that Electrolux tests and rates such products using the alternate test procedure described in this notice. Today's decision prohibits Electrolux from making representations concerning the energy efficiency of these products unless such product has been tested consistent with the provisions and restrictions in the alternate test procedure set forth in the Decision and Order below, and such representation fairly discloses the results of such testing. Distributors, retailers, and private labelers are held to the same standard when making representations regarding the energy efficiency of these products. (42 U.S.C. 6293(c))

Issued in Washington, DC, on December 8, 2009.

Cathy Zoi,

Assistant Secretary, Energy Efficiency and Renewable Energy.

Decision and Order

In the Matter of: Electrolux Home Products, Inc. (Case No. RF–009).

Background

Title III of the Energy Policy and Conservation Act (EPCA) sets forth a variety of provisions concerning energy efficiency. Part A 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))

Today's notice involves residential products under Part A. Relevant to the current Petition for Waiver, the test procedure for residential electric refrigerator-freezers is contained in 10 CFR Part 430, subpart B, appendix A1.

DOE's regulations contain provisions allowing a person to seek a waiver from the test procedure requirements for covered consumer products, when the petitioner's basic model contains one or more design characteristics that prevent testing according to the prescribed test procedure, or when they 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).