

ADDRESSES: Please submit comments, data, and information electronically if possible. Comments should be sent to the following Internet address: clotheswasherwaiver@ee.doe.gov. Electronic comments must be submitted in a WordPerfect, Microsoft Word, or PDF format, and avoid the use of special characters or any form of encryption. Comments in electronic format should be identified by the case number CW-012, and wherever possible carry 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. No telefacsimiles (telefaxes) will be accepted.

Written (paper) comments may be submitted to: Ms. Brenda Edwards-Jones, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, EE-2J, Case Number CW-012, 1000 Independence Avenue, SW., Washington, DC 20585-0121, (202) 586-2945. Please submit one signed copy—no telefacsimiles.

You may read copies of the public comments received in the resource room of the appliance office of the Building Technologies Program, room 1J-018 of the Forrestal Building at the U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC, between the hours of 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Please call Ms. Brenda Edwards-Jones at the above telephone number for additional information regarding visiting the resource room.

FOR FURTHER INFORMATION CONTACT:

Barbara Twigg, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, EE-2J, 1000 Independence Avenue, SW., Washington, DC 20585-0121, (202) 586-8714, e-mail: barbara.twigg@ee.doe.gov; or Francine Pinto, Esq., U.S. Department of Energy, Office of General Counsel, GC-72, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-7432, e-mail: Francine.Pinto@hq.doe.gov.

SUPPLEMENTARY INFORMATION: Title III of the Energy Policy and Conservation Act (EPCA) sets forth a variety of provisions designed to improve energy efficiency. Part B of title III (42 U.S.C. 6291-6309) provides for the Energy Conservation Program for Consumer Products Other Than Automobiles. Among its provisions, it requires DOE to prescribe standardized test procedures to measure the energy consumption of certain consumer products, including clothes

washers. The intent of the test procedures is to provide a comparable measure of energy consumption that will assist consumers in making purchasing decisions. The test procedures for clothes washers are set forth in 10 CFR part 430, subpart B, appendix J and J1.

The Department's regulations in 10 CFR 430.27, set forth a process by which an interested person may seek a waiver and an interim waiver from the test procedure requirements for a covered consumer product. The waiver process allows the Assistant Secretary for Conservation and Renewable Energy (now known as the Assistant Secretary for Energy Efficiency and Renewable Energy) to waive temporarily test procedures for a particular basic model when a petitioner shows that the basic model contains one or more design characteristics which prevent testing according to the prescribed test procedures, or when 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. Waivers generally remain in effect until a revised test procedure becomes effective, thereby resolving the problem that is the subject of the waiver.

An Interim Waiver will be granted by the Assistant Secretary for Energy Efficiency and Renewable Energy 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 on the Petition for Waiver. 10 CFR 430.27 (g). An Interim Waiver remains in effect for a period of 180 days from the date of issuance or until DOE issues its determination on the Petition for Waiver, whichever is sooner, and may be extended for an additional 180 days, if necessary. 10 CFR 430.27(h).

In addition to the waiver process outlined in 10 CFR 430.27, the clothes washer test procedure published August 27, 1997, specifically requires manufacturers of clothes washers with an adaptive control system, other than an adaptive water fill control system, to obtain a waiver to establish an acceptable test procedure for each such clothes washer. 62 FR 45501, 45514. Neither Appendix J (in effect through December 31, 2003) nor Appendix J1 (effective January 1, 2004) of that test procedure provides a means for determining the energy consumption of

a clothes washer with an adaptive control system.

On March 26, 2003, Fisher & Paykel filed an Application for Interim Waiver and a Petition for Waiver regarding its clothes washer model IW which has an adaptive control system that affects more than the water fill and cannot be tested accurately using the existing test procedure. Instead of having a means to select a "normal" cycle for testing (per Appendix J) or an energy test cycle for washing cottons and linens for testing (per Appendix J1), the machine features two sensing modes, water level sensing and fabric sensing, to determine the wash action. Both sensing modes employ specific agitator strokes and then assess the load's response to those agitator strokes. When a customer pushes the start button, the IW washer will, like many washers, go through an automatic sensing process to determine the water level. However, it will also sense the fabric type of the load and assign an agitator profile for that cycle. With additional input from the "How Dirty" setting, the washer will automatically select the appropriate wash action. Although users can adjust the "How Dirty" setting according to their assessment of the dirtiness of the load of clothes, if no choice is made, the power/start button will automatically select the midpoint of the "How Dirty" response as the default setting. This midpoint, setting three out of five possible settings, instructs the washer to wash on a medium soil level, the soil level suggested in the Fisher & Paykel user guide for washing a normal wash load with the IW model. Fisher & Paykel proposes to test the IW clothes washer on this midpoint, default setting activated by the power/start button, believing that it is the closest equivalent to a "normal" cycle. After the initiation of the default cycle, Fisher & Paykel will conduct the remainder of the energy consumption test according to the established test procedure.

Fisher & Paykel states that the "How Dirty" setting only affects the energy consumed by the motor, a small proportion of the total energy consumed by the wash cycle. The company provided test data to show the energy used per cycle by the five "How Dirty" settings, ranging from 0.086 kWhr/cycle to 0.121 kWhr/cycle. Since the variation in energy consumption among the five "How Dirty" settings will be insignificant compared to the total energy consumption of the clothes washer, the selection of the default cycle at the midpoint setting would seem to provide a fair equivalent of the traditional "normal" cycle for testing.