

dryers, models T1565CA and T1570C, which do not have an outside exhaust. The existing clothes dryer test procedure only applies to clothes dryers that are vented.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION: In accordance with 10 CFR 430.27(g), notice is hereby given of the issuance of the Decision and Order as set below. In the Decision and Order, Miele has been granted a Waiver for its condenser clothes dryers, models T1565CA and T1570C, which do not have an outside exhaust.

Issued in Washington, DC, February 10, 1995.

Christine A. Ervin,

Assistant Secretary, Energy Efficiency and Renewable Energy.

Decision and Order

In the Matter of: Miele [Case No. CD-001].

Background

The Energy Conservation Program for Consumer Program Products (other than automobiles) was established pursuant to the Energy Policy and Conservation Act (EPCA), Public Law 94-163, 89 Stat. 917, as amended by the National Energy Conservation Act (NECPA), Public Law 95-619, 92 Stat. 3266, the National Appliance Energy Conservation Act of 1987 (NAECA), Public Law 100-12, the National Appliance Energy Conservation Amendments of 1988 (NAECA 1988), Public Law 100-357, and the Energy Policy Act of 1992, Public Law 102-486, 106 Stat. 2776, which requires DOE to prescribe standardized test procedures to measure the energy efficiency, energy use, or estimated annual operating cost of covered consumer products, including clothes dryers. The clothes dryer test procedure, among other things, provides a means of calculating an energy factor, a measure of energy efficiency, which is used to determine if a product is compliant with the minimum energy conservation standards. The Department imposed amended energy conservation standards requiring minimum energy factors for four of the five classes of

clothes dryers in a final rule (56 FR 22279) issued May 14, 1991, and which is effective for products manufactured on or after May 14, 1994. Test procedures for clothes dryers appear at 10 CFR Part 430, Subpart D.

The Department amended the prescribed test procedure by adding 10 CFR 430.27 on September 26, 1980, creating the waiver process. (45 FR 64108). Thereafter, DOE further amended the appliance test procedure waiver process to allow the Assistant Secretary for Energy Efficiency and Renewable Energy (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. (51 FR 42823, November 26, 1986).

The waiver process allows the Assistant Secretary to temporarily waive the 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 final test procedure amendments become effective, resolving the problem that is the subject of the waiver.

The Interim Waiver provisions, added by the 1986 amendment, allow the Assistant Secretary to grant an Interim Waiver when 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. 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 additional 180 days, if necessary.

Miele filed a Petition for Waiver and an Application for Interim Waiver on April 5, 1994, which was amended on April 20, 1994, and April 22, 1994, regarding its clothes dryer models T1515A, T1520, T1565CA, and T1570C. Miele's petition submission was primarily based on the reverse tumble design feature which all four models have. However, today's Decision and Order is only applicable to models T1565CA and T1570C, which are

condenser dryers. Miele has certified on January 27, 1995, with the Department that its clothes dryer models T1515A and T1520 can be tested using the existing test procedure, and comply with the existing 1994 minimum energy conservation standard. On September 29, 1994, the Department published in the **Federal Register** the Miele petition, and solicited comments, data, and information respecting the petition, and denied the requested Interim Waiver. (59 FR 49658).

Comments were received from Miele and the Association of Home Appliance Manufacturers (AHAM). The Department consulted with the Federal Trade Commission (FTC) concerning the Miele petition. The FTC did not have any objections to the Decision and Order.

Assertions and Determinations

On December 22, 1994, Miele provided comment to the Department that after consultation with AHAM, it had decided to restrict its request to its condenser clothes dryers, models T1565CA and T1570C. Miele indicated that the condenser clothes dryers offer additional utility to the consumer which affects energy consumption. The condenser clothes dryer does not have an outside exhaust and requires more energy to extract the moisture from the drum's exhaust prior to expelling the air back into the surrounding air. This type of product is suited for installation conditions where venting is not practical or cost prohibitive.

Miele stated that the Department's existing test procedure is applicable for vented clothes dryers because the test procedure requires the use of an exhaust restrictor to simulate an installed condition. Miele further stated that since its condenser clothes dryers do not have an exhaust, they cannot be tested in accordance with the Department's test procedure, and the test procedure does not apply to them. Miele added, "Consequently, the DOE energy conservation standard for clothes dryers does not apply to Miele condenser dryers since the DOE standard must be 'determined in accordance with test procedures prescribed under section 6293 of this title.' 42 U.S.C. § 6291(6)."

Miele also proposed that the Department consider adding a class for condenser clothes dryers in the current clothes dryer rulemaking (Docket No. EE-RM-94-403) for minimum energy efficiency standards, which will become effective in the 1999 timeframe, along with an appropriate test procedure.

On December 27, 1994, AHAM provided comment and stated,