



GE Appliances & Lighting

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Mr. Scott Blake Harris
U.S. Department of Energy
Energy Technology Program Specialist
1000 Independence Avenue, S.W.
Office of the Building Technologies
EE-2J/Building FORS
Washington, D.C. 20585

Dear Mr. Harris:

Re: Residential Clothes Washer Large-Capacity Waiver Question

In response to your November 30 letter seeking comments whether the Department should apply more broadly the principle embodied in the recently granted washer capacity waivers extending the load size tables for large-capacity models, GE provides the following response. .

As you note in your letter, the Department granted GE's waiver request earlier this year. We filed that application because NAECA clearly provides that waiver is the remedy when the test procedure does not permit the accurate calculation of energy performance of a product. And certainly, inaccurate calculation will result when a large capacity washer is tested using the clothes test load intended for a smaller machine: It will greatly overstate the machine's energy efficiency. The result is consumer deception.

It was industry's recognition of these concerns that led the Association of Home Appliance Manufacturers (AHAM) to propose in its October 2, 2009 comments filed in EERE-2008-BT-STD-0019 that Table 5.1 on Load Sizes be revised to provide for test loads for machines up to 6 cu. ft. (See Appendix B, p. 32 of AHAM's comments.) On September 21, 2010, DOE acknowledged AHAM's comments and proposed to

amend Table 5.1 to “continue ... the linear relationship between test load size and clothes washer container volume ...”¹

GE urges the Department to take action to remove from the market all washers larger than 3.8 cu. ft. that are not covered by a waiver. This is the only appropriate remedy for products that were manufactured, tested and labeled in violation of legal requirements.² Granted that this will require re-testing, re-rating, and recertifying the affected models currently on the market. But that is not unreasonable given the importance of ensuring that consumers receive accurate efficiency rating. To do otherwise would penalize manufacturers who obtained waivers. In addition, to the extent that rebates and/or other incentives, e.g., ENERGY STAR tax credits, were tied to sale of such units, the Department should evaluate appropriate remedies to address any inappropriate benefit gained from non-compliance.

GE also urges the Department to begin and complete as quickly as possible the rulemaking to amend the clothes washer test procedure to revise Table 5.1 to acknowledge the larger capacity units that consumers want and increase test clothes load sizes. In the interim, manufacturers should be required to follow the procedure for obtaining waivers.

In summary, GE urges the Department to adopt the following approaches to deal with the four groups of manufacturers and products impacted by adjusting clothes test load sizes:

1. Products already granted waivers: these products comply with current law; no changes required.
2. Products built on a basic energy model that has received a waiver per (1) above: DOE should consider issuing guidance to allow manufacturers who have been granted waivers, to apply those waivers to products built before or after waiver on the same basic energy model *so long as those products are properly labeled and certified*.
3. Products yet to be manufactured: until the pending rulemaking is finalized, manufacturers should apply for waivers under existing DOE regulations. The Department’s timeliness in reviewing and acting on petitions has significantly increased such that complying with this requirement should not impose an unreasonable burden.

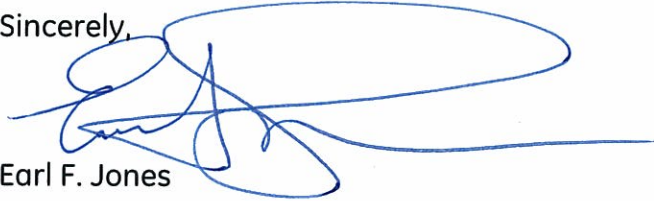
¹ Fed Reg. Vol 75, No. 182, p. 57571, September 21, 2010.

² GE would exempt from this ban models designed on the same basic energy “platform” as the model for which a waiver was granted. Under these unique circumstances the Department could interpret the granted waiver to apply on a blanket basis to such products rather than require model-by-model waiver.

4. Products in commerce for which a waiver was not sought: the Department should immediately order these products off the market, require that they be re-tested, re-labeled and recertified. In addition, enforcement actions should be commenced against the manufacturers and penalties assessed as provided for under current law.

We appreciate the opportunity to comment and are happy to answer any questions you may have.

Sincerely,

A handwritten signature in blue ink, appearing to be "Earl F. Jones", written over a large, light blue oval shape.

Earl F. Jones