#17

2000 M 63 · Mail Drop 3005 · Benton Harbor, Michigan 49022
Phone: 269/923-4647 · Fax: 269/923-4652 · j.b.hoyt@whirlpool.com

J.B. HOYT
DIRECTOR, GOVERNMENT RELATIONS

March 31, 2006

Secretary Samuel Bodman
United States Department of Energy
Building Technologies Program, Mailstop EE-2J
1000 Independence Avenue, SW
Washington, DC 20585-0121

Re: Docket Number EE-RM-PET-100

Dear Secretary Bodman:

Whirlpool Corporation appreciates the opportunity to comment in this matter. As one of the leading manufacturers and marketers of home appliances, we have considerable experience in the both the technological development of the products and the consumer use of them.

The petition of the California Energy Commission, which seeks an exemption from Federal energy efficiency standards is flawed in several respects and should be denied by the Department. Specifically:

**Reduces Consumer Choice/Safe Harbor Provision**

The petition calls for severe limits in clothes washer water factors (WF = 8.5 in 2007, 6.0 in 2010). Top-load washers comprise some 80% of all consumer purchases. These products require a traditional rinse in order to use fabric softener (a requirement for over 50% of U.S. consumers). They also require an adequate amount of water in order to remove “chunky soils” such as sand or horse hair from clothes during the rinse process. These products typically have water factors of 12 – 13. Top-load washers cannot be designed to use a low water factor and yet meet consumer demands for product performance.

Thus, the petition would force manufacturers to withdraw top-load washers from the California market. Such a regulation-mandated withdrawal would deprive consumers of a market choice which they currently enjoy. This would be a direct violation of the Safe Harbor provision of the National Appliance Energy Conservation Act (NAECA). This rule prohibits DOE from granting an exemption from preemption if it finds that it is likely to result in the unavailability in California of performance characteristics, features, sizes,

capacities and volumes that are substantially the same as those generally available in the state at the time of DOE's finding

The vast majority of top-load washers currently sold in the U.S. (including California) are produced in the United States, mostly in the Midwest. Conversely, the majority of the front-load clothes washers are produced offshore. Any move that artificially reduced the demand for top-load washers would lead to reduced U.S. employment…particularly in Midwest where many manufacturing plants are located. Obviously, the Midwest has already been particularly hard hit with job losses. A California water factor ruling would exacerbate the situation.

**Consumers Have Unique Preferences for Top-Loaders and Front-Loaders**

In 2004 Whirlpool Corporation contracted for extensive marketing research in this area. This research utilized a nationally representative sample of consumers and was conducted by a firm specializing in consumer understanding. The research revealed specific reasons that some consumers prefer top-loaders while other consumers prefer front-loaders:

| Prefer Top-Loaders Because… | Prefer Front-Loaders Because… |
|---|---|
| Comfort and Familiarity | Resource Savings |
| Ease of Loading | Increased Gentleness |
| Ability to Open Lid in Mid-cycle | Cleaning Performance |
| Price | Ergonomics |
| Space Restrictions | -- |

This table shows that consumers have distinct, non-overlapping reasons for preferring one washer configuration to another.

The research further shows that nearly 70% of consumers would prefer to purchase a top-loader while less than 10% would prefer to not own such a unit. Approximately one-third on consumers indicated a preference for front loaders, while over 20% do not want a front-loader. (Note: some consumers did not indicate a preference.)

This is significant evidence that consumers demand a choice in the types of clothes washers they purchase. Restriction of such choice would be inappropriate and in violation of the safe harbor provisions noted above.

**Increases Cost to Consumers and Manufacturers Alike**

Granting the petition would have an economic impact on consumers in the State of California. While the average top-load washer sells for under $500, the average front-load washer sells for over $1000. The difference in price is driven by the technology, components and materials required to build front-load washers. The approval of this petition would leave only front-load washers in the California market, thus forcing all consumers to purchase a far more expensive product than the average buyer chooses today.

Indeed this has the potential to impact consumers across the U.S. California is a significant portion of the total market for top-load washers (10 – 15%). If this volume were removed from the production of all top-loaders, the resulting decline in economies

of scale could drive up the manufacturing cost (and likely the consumer price) of the remaining top-load machines.

As a result of the negotiations which led to the 2004 and 2007 Federal clothes washer energy efficiency standards, manufacturers including Whirlpool made substantial investments in U.S.-based manufacturing capacity. These investments were feasible due to the continuity and clear direction provided by those standards. The proposed exemption would be a direct reversal of the basis for those good-faith investments. The result would be underutilized assets or a stranded investment.

**Negates the Impact of Market Forces**

Through the efforts of the Department, manufacturers and retailers alike, free market forces have generated increasing interest in highly energy and water efficient appliances. In particular, the ENERGY STAR® program has served to identify and promote the most efficient products in a particular category. The consumer interest in front-load clothes washers has been a particularly successful outcome of this effort. The ENERGY STAR program has highlighted the energy and water savings available through front-loaders vs. top-loaders. Yet the free marketplace allows consumers to chose the product, performance and efficiency that best meets their own situation. The California proposal would force a particular outcome on consumers, inappropriately negating the free market.

**Increased Distribution Complexity and Costs**

The major home appliance industry provides American consumers with high quality, low cost goods through the use of large-scale manufacturing operations. Once built, these products are distributed through a nationwide network of regional distribution centers. In the case of California, Whirlpool products move from our laundry factories in Ohio to distribution centers in Stockton and Ontario, California. These facilities also distribute to several other states in the Northwest (from Stockton) and the Southwest (from Ontario). Even if top-load washers were no longer saleable in California, they would continue to be warehoused within the State. The limited distribution would increase our operating complexity and cost. This added cost would ultimately be borne by the consumer.

Additionally, the opportunity for consumer confusion would be high. Because Whirlpool would continue to promote and sell top-loading washers in adjoining states and would continue to list them on our website, many consumers would be aware of and interested in purchasing such products. With the product stocked in the State, the opportunity for unintentional, erroneous sales to California retailers would also exist.

Should other states follow California in seeking a similar exemption from the Federal clothes washer standard, the distribution picture would grow in complexity and inefficiency. Such a “patchwork quilt” of varying state and Federal regulation across the nation would both confuse the consumer and drive up costs (for manufacturers and distributors).

**Negligible Water Consumption**

Clothes washers use a very modest amount of the total water consumed in the State of California (or nationally, for that matter). Data from the Pacific Institute indicate that

**#17**

clothes washers use approximately 1% of the total water use in the State. This is barely more than the amount of water lost to leaks (approximately 0.8%). Through the first three years of this decade, California population growth averaged 1.6% per year. Thus, even if clothes washers were eliminated from use altogether, the population growth in one year would more than negate the water savings.

While such a drastic action is not contemplated here, this does point out the clothes washers are not the appropriate solution to any water usage concerns in the State. In fact, it appears that such water usage concern is not universally accepted. Neither the master plan for energy use or water use in the State of California includes any action regarding clothes washer water factors.

**California Utility Rates are Not Unique**

A critical component of the CEC argument is that the cost of utilities in California is significantly different than elsewhere. The table below shows that this is not the case.

| State | Electricity ($/kWh) | Natural Gas ($/therm) | Water $/1000 gallons |
|---|---|---|---|
| California | $0.18/kWh | $1.13/Therm | $12.41 |
| New York | $0.14/kWh | $1.15/Therm | $13.73 |
| Maine | $0.12/kWh | $1.25/Therm | $9.29 |

Several states have utility rates (particularly for water) similar to or higher than California. Therefore that State is not a special situation; the Federal energy standards are adequate and appropriate in California as they elsewhere.

Again, thank you for the opportunity to comment in this matter. Please contact the undersigned with any questions.

Sincerely,

cc: David Calabrese, AHAM