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October 14, 2016

Via Email

Ann Bailey
U.S. Environmental Protection Agency
ENERGY STAR® Product Labeling
MostEfficient@energystar.gov

Re: ENERGY STAR Proposed Recognition Criteria for Most Efficient 2017

Dear Ms. Bailey:

Thank you for the opportunity to comment on the Environmental Protection Agency's (EPA) proposed recognition criteria for ENERGY STAR Most Efficient 2017. We appreciate the collaboration that continues to be encouraged by the EPA and shared between its stakeholders. As you know, our ongoing commitment to the growth, success and integrity of the ENERGY STAR promise is a strong source of pride for our company.

As a very active member of the Association of Home Appliance Manufacturers (AHAM), Whirlpool Corporation has worked closely with them in the development of the comments they submitted (under separate cover) on this draft recognition criteria. **Please be advised that we support and echo the positions taken by AHAM; particularly the positions that they have previously taken in their comments on the first draft clothes dryer proposal, as well as their comments on the second draft clothes dryer proposal about the normal, maximum dryness testing requirement. Our comments supplement AHAM's comments and further expand on our own comments for the first draft proposal.**

Clothes Dryer Draft 2 Proposed Recognition Criteria

"Normal, Maximum Dryness" Cycle

We continue to disagree with EPA's proposal to require additional testing of cycles beyond those that are required in the DOE test procedure. In addition to those concerns that we highlighted in our comments for the first draft proposal, we would like to mention another challenge and serious concern for those manufacturers interested in qualifying models to the proposed Most Efficient criteria.

As you are aware, DOE's Appendix D2 test procedure requires testing of the "normal" cycle on the highest temperature setting with normal/medium dryness level selected. If 2% RMC is not reached in the first test, the test procedure indicates to run an additional test on the highest dryness level setting and report that energy consumption.

Consistent with the comments that Whirlpool filed under DOE Draft Guidance on Clothes Dryer Test Procedure, Append D2 (Docket Number EERE-2016-BT-GUID-0014)¹, we do not believe that the 2% RMC threshold is a regulated requirement for the additional test run using the highest dryness level setting. This DOE guidance has not yet been finalized, but it appears that EPA's proposal essentially mandates the 2% RMC in the normal cycle with highest dryness level setting for Most Efficient dryers.

Given that the DOE guidance is not yet finalized, as DOE considers our comments raising the serious and disruptive market impacts that the guidance would cause if finalized, we caution against EPA adopting the proposal to require 2% RMC and CEF levels for the normal cycle with highest dryness level setting.

This proposal would have far-reaching and unintended consequences for models potentially meeting Most Efficient levels that we already have in market today, in addition to those models that are in the pre-launch or development stage. In particular, for those models that are in market today, we would need to ensure that they can meet an enforceable 2% RMC requirement in the normal cycle with highest dryness level setting.

We would have to consider redesigning, retesting, and recertifying models to meet this new RMC and CEF requirement. A 2006 letter from the U.S. Federal Trade Commission² indicates that changing the components or software of a model to improve energy efficiency without changing the sales model number may be an "unfair or deceptive act or practice." If we redesigned or changed the software for models on the market today to meet this additional Most Efficient requirement without changing sales model numbers, this may be an unfair or deceptive act or practice. Without changing model numbers for a model redesigned, retested, and recertified to meet Most Efficient levels, a consumer researching this model on the ENERGY STAR qualified product list (QPL) or on a utility rebate model list and later purchasing in a store, will ultimately have no way of knowing whether the model they researched on the QPL or utility list exactly matches the unit they are actually delivered. They may be delivered units from inventory from that same model number that were produced before the model was redesigned to meet Most Efficient performance levels in that normal cycle with highest dryness level setting.

To avoid committing what FTC may determine to be an unfair or deceptive act or practice, we may have to not only redesign, retest, and recertify models meeting the Most Efficient levels, but may also have to change model numbers and refloor those models. This is a steep penalty for any manufacturer to pay for those models that are already rated among the most energy efficient models in the U.S. market, and perhaps even disincentivizes manufacturers from qualifying models to Most Efficient. Hopefully EPA is aware of the cost and burden associated with changing model numbers and reflooring. If not, we are happy to talk through this in further detail.

¹ <https://www.regulations.gov/document?D=EERE-2016-BT-GUID-0014-0005>

² <https://www.regulations.gov/document?D=EERE-2010-BT-CE-0014-0078>

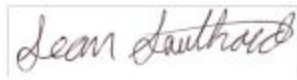
Given this potential unexpected market disruption that may result from the addition of this secondary requirement in the proposal, we propose that EPA eliminate the additional requirement entirely from the clothes dryer recognition criteria.

Product Classes and Gas Dryer Recognition Criteria

We reiterate our comments from the first draft proposal that there is no rationale for combining all electric dryers in a single product class, and that we do not agree with EPA setting aspirational levels for gas dryers, beyond where dryers in the market today can achieve. EPA should not rely on theoretical technical capabilities of gas dryers when those have not been proven out in the market in a consumer-accepted and cost-effective manner.

Thank you again for your consideration and we look forward to continued collaboration. As always, please do not hesitate to ask us for any clarifications on these comments.

Sincerely,

A handwritten signature in dark ink, reading "Sean Southard", enclosed in a thin black rectangular border.

Sean Southard
Manager, Regulatory Affairs
Whirlpool Corporation