

would ultimately grant a waiver to LG, given the proposed alternate test procedures which may permit testing of ventless dryers and new technologies which could potentially improve the energy efficiency of such products. DOE received comments on the LG Petition from Whirlpool Corporation (Whirlpool), the Association of Home Appliance Manufacturers (AHAM), and Miele, Inc. (Miele).

#### *Assertions and Determinations*

##### LG's Petition for Waiver

On November 14, 2005, LG submitted a Petition for Waiver and an Application for Interim Waiver from the test procedures at 10 CFR part 430, subpart B, Appendix D, which are applicable to residential electric clothes dryers. LG did not include an alternate test procedure with its petition, stating that it knew of no other test procedure to rate its ventless dryer products. Accordingly, as part of the August 23, 2006 **Federal Register** notice, DOE proposed a modified test procedure to accompany the LG Petition for Waiver, which was based on the existing test procedures for clothes dryers under 10 CFR part 430, subpart B, Appendix D, but without a requirement to use an exhaust restrictor. No other changes were made to the test procedure.

After reviewing the public comments received on this matter, DOE notes that Whirlpool agreed with DOE's modified test procedure, but recommended clarifications to DOE's proposed revisions of the definitions pertaining to clothes dryers (*i.e.*, sections 1.14 and 1.15 of the DOE clothes dryer test procedure). The commenting stakeholders (AHAM, Miele, and Whirlpool) all stated that ventless clothes dryers cannot meet the DOE efficiency standard, so accordingly, they recommended a separate product class and efficiency standard for ventless clothes dryers.

In response to the assertions of the industry commenters, DOE has not been able to find data as to whether ventless clothes dryers can or cannot meet the existing DOE clothes dryer energy conservation standard. Nevertheless, DOE acknowledges the commenters' experience in working with this type of product. However, if this type of clothes dryer is indeed unable to meet the standard, DOE cannot, in a waiver, establish a separate product class<sup>3</sup> and associated efficiency level. Instead, such actions must be taken in the context of a standards rulemaking. Such a

standards rulemaking was initiated with a Framework Document public meeting held on October 24, 2007. A Final Rule prescribing new efficiency standards for residential clothes dryers is expected in 2011.

It is further noted that on February 17, 1995, DOE published in the **Federal Register** a Decision and Order granting a waiver to Miele for a very similar ventless clothes dryer. 60 FR 9330. Miele's waiver did not require Miele to test its ventless clothes dryers, and in that document, DOE stated that the energy conservation standards for clothes dryers did not apply to Miele's ventless clothes dryers. Despite the passage of time, LG's situation is analogous to that of Miele with regard to ventless clothes dryers. DOE has determined that although it would be feasible to provide LG with an alternate test procedure, as proposed, it is likely, as all the commenters agreed, that the problem is more fundamental than one limited to a needed test procedure change; instead, in spite of technological developments, it is expected that ventless clothes dryers would not meet the DOE energy conservation standard, and that a separate clothes dryer class (with a separate efficiency standard) would have to be established for ventless clothes dryers. Otherwise, a type of product with unique consumer utility could be driven from the market. However, the establishment of product classes cannot be done in a waiver, but only in a standards rulemaking.

Therefore, inasmuch as ventless clothes dryers are likely unable to meet the DOE clothes dryer efficiency standard, and there is a long-standing waiver granted to Miele, DOE has decided to grant a similar waiver to LG from testing of its ventless clothes dryers. Therefore, DOE is not making any modifications to its existing clothes dryer test procedure at this time, and it will not require LG to test its specified ventless clothes dryer models under that procedure.

#### Consultations With Other Agencies

DOE consulted with Federal Trade Commission (FTC) staff concerning the LG petition. The FTC staff did not have any objections to granting a waiver to LG. DOE also consulted with the National Institute of Standards and Technology (NIST) concerning the LG petition, and NIST likewise did not have any objections to granting a waiver to LG.

#### Conclusion

After careful consideration of all the material that was submitted by LG, the comments received, the review by NIST,

and consultation with FTC staff, it is ordered that:

(1) The Petition for Waiver submitted by LG Electronics (LG) (Case No. CD-002) is hereby granted as set forth in the paragraphs below.

(2) LG shall not be required to test or rate its DLEC733W ventless clothes dryer products on the basis of the test procedures at 10 CFR part 430, subpart B, appendix D. The existing 1994 minimum energy conservation standard for clothes dryers at 10 CFR 430.32(h) is not applicable to this LG ventless clothes dryer.

(3) This waiver shall remain in effect from the date this Decision and Order is issued until the effective date of the final rule(s) in which DOE prescribes test procedures and minimum energy conservation standards appropriate to the above model series manufactured by LG.

(4) This waiver is conditioned upon the presumed validity of statements, representations, and documentary materials provided by the petitioner. This waiver may be revoked or modified at any time upon a determination that the factual basis underlying the Petition for Waiver is incorrect.

Issued in Washington, DC, on October 27, 2008.

**John F. Mizroch,**

*Acting Assistant Secretary, Energy Efficiency and Renewable Energy.*

[FR Doc. E8-26692 Filed 11-7-08; 8:45 am]

**BILLING CODE 6450-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Project No. 12557-001-RI]

#### **SBER Royal Mills, LLC; Notice of Availability of Environmental Assessment**

November 3, 2008.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's regulations, 18 CFR part 380 (Order No. 486, 52 FR 47879), the Office of Energy Projects has reviewed the application for exemption from licensing for the Royal Mills Hydroelectric Project, to be located on the South Branch Pawtuxet River, in the Town of West Warwick, Kent County, Rhode Island, and has prepared an Environmental Assessment (EA). In the EA, Commission staff analyze the potential environmental effects of the project and conclude that issuing an exemption for the project, with

<sup>3</sup>Product classes are established to recognize distinct categories of a covered product that may necessitate different efficiency standard levels.

appropriate environmental measures, would not constitute a major federal action significantly affecting the quality of the human environment.

A copy of the EA is on file with the Commission and is available for public inspection. The EA may also be viewed on the Commission's Web site at <http://www.ferc.gov> using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or toll-free at 1-866-208-3676, or for TTY, (202) 502-8659.

Any comments should be filed within 30 days from the issuance date of this notice, and should be addressed to the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Room 1-A, Washington, DC 20426. Please affix "Royal Mills Hydroelectric Project No. 12557" to all comments. Comments may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "eFiling" link. For further information, contact Steve Kartalia at (202) 502-6131.

**Kimberly D. Bose,**  
*Secretary.*

[FR Doc. E8-26687 Filed 11-7-08; 8:45 am]  
BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. ER09-198-000]

#### New York Independent System Operator, Inc.; Notice of Filing

November 3, 2008.

Take notice that on October 31, 2008, New York Independent System Operator, Inc. filed a request to amend its tariffs to preclude the scheduling of certain external transactions.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or

protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

*Comment Date:* 5 p.m. Eastern Time on November 10, 2008.

**Kimberly D. Bose,**  
*Secretary.*

[FR Doc. E8-26688 Filed 11-7-08; 8:45 am]  
BILLING CODE 6717-01-P

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-8739-6]

### Proposed CERCLA Administrative Cost Recovery Settlement; Portland Harbor Superfund Site, Triangle Park Removal Action Area

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice; request for public comment.

**SUMMARY:** In accordance with section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended ("CERCLA"), 42 U.S.C. 9622(i), notice is hereby given of a proposed administrative settlement agreement under the authority of section 122(h) of CERCLA, 42 U.S.C. 9622(h), for recovery of response costs concerning the Triangle Park Removal Action Area within the Portland Harbor Superfund Site with Triangle Park LLC ("Settling Party"). The settlement requires the Settling Party to pay \$1,200,000 to the Triangle Park Removal Action Area Trust Fund ("TP Trust

Fund") to be used to pay for the cleanup, and includes a covenant not to sue the Settling Party pursuant to sections 106 and 107(a) of CERCLA, 42 U.S.C. 9606 and 9607(a). The TP Trust Fund will be established pursuant to an existing Bona Fide Prospective Purchaser Agreement between the University of Portland ("University") and EPA ("BFPP Agreement"). In the BFPP Agreement, the University agreed to conduct removal action on the Triangle Park property ("Property") once the University completed the purchase of the Property. The University of Portland has entered into an agreement with Triangle Park LLC to purchase the Property. By acquiring the Property, the University intends to enlarge its campus so that it can continue to expand and pursue its educational and service mission by relocating certain athletic facilities, freeing up its existing land for academic buildings. The University's plan includes public access to the Property, recreational opportunities, including a planned riverfront trail. For thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the settlement. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate.

**DATES:** Comments must be received on or before December 10, 2008.

**ADDRESSES:** The proposed settlement is available for public inspection at the U.S. EPA Region 10 offices, located at 1200 Sixth Avenue, Seattle, Washington 98101. Comments should reference the Triangle Park Removal Action Area in Portland, Oregon, EPA Docket No. CERCLA-10-2008-0160 and sent to Jennifer G. MacDonald, Assistant Regional Counsel, U.S. EPA Region 10, Mail Stop ORC-158, 1200 Sixth Avenue, Suite 900, Seattle, Washington 98101.

**FOR FURTHER INFORMATION CONTACT:** Jennifer G. MacDonald, Assistant Regional Counsel, U.S. EPA Region 10, Mail Stop ORC-158, 1200 Sixth Avenue, Suite 900, Seattle, Washington 98101; (206) 553-8831.

Dated: September 29, 2008.

**Daniel D. Opalski,**

*Director, Office of Environmental Cleanup.*

[FR Doc. E8-26700 Filed 11-7-08; 8:45 am]

BILLING CODE 6560-50-P