

**Confidential Information**

DACA makes no request to DOE for confidential treatment of any information contained in this Petition for Waiver and Application for Interim Waiver.

**Conclusion**

Daikin AC (Americas), Inc. respectfully requests DOE to grant its Petition for Waiver of the applicable test procedure to DACA for specified models of the Altherma system, and to grant its Application for Interim Waiver. DOE's failure to issue an interim waiver from test standards would cause significant economic hardship to DACA by preventing DACA from marketing these products even though DOE has previously granted a waiver to other products that were offered in the market with similar design characteristics.

We would be pleased to respond to any questions you may have regarding this Petition for Waiver and Application for Interim Waiver. Please contact me at 972-245-1510 or by email at: [Lee.smith@daikinac.com](mailto:Lee.smith@daikinac.com).

Sincerely,

Lee Smith

Assistant Vice President—Residential Solutions

Daikin AC (Americas), Inc.  
1645 Wallace Drive, Suite 110  
Carrollton, Texas 75006  
(Submitted in triplicate)

Encls: Copy of Daikin Altherma Brochure, Engineering Data, EN Testing & Rating Standards

[FR Doc. 2010-25302 Filed 10-6-10; 8:45 am]

BILLING CODE 6450-01-P

**DEPARTMENT OF ENERGY****Office of Energy Efficiency and Renewable Energy**

[Case No. DW-004]

**Energy Conservation Program for Consumer Products: Decision and Order Granting a Waiver to Whirlpool Corporation From the Department of Energy Residential Dishwasher Test Procedure**

**AGENCY:** Office of Energy Efficiency and Renewable Energy, Department of Energy.

**ACTION:** Decision and order.

**SUMMARY:** The U.S. Department of Energy (DOE) gives notice of the decision and order (Case No. DW-004) that grants to Whirlpool Corporation (Whirlpool) a waiver from the DOE dishwasher test procedure for certain basic models containing integrated or built-in water softeners. Under today's decision and order, Whirlpool shall be required to test and rate its dishwashers with integrated water softeners using an alternate test procedure that takes this technology into account when

measuring energy and water consumption.

**DATES:** This Decision and Order is effective October 7, 2010.

**FOR FURTHER INFORMATION CONTACT:** Dr. Michael G. Raymond, U.S. Department of Energy, Building Technologies Program, Mail Stop EE-2J, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585-0121. Telephone: (202) 586-9611. E-mail: [Michael.Raymond@ee.doe.gov](mailto:Michael.Raymond@ee.doe.gov).

Ms. Jennifer Tiedeman, U.S. Department of Energy, Office of the General Counsel, Mail Stop GC-71, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585-0103. Telephone: (202) 287-6111. E-mail: [Jennifer.Tiedeman@hq.doe.gov](mailto:Jennifer.Tiedeman@hq.doe.gov).

**SUPPLEMENTARY INFORMATION:** In accordance with Title 10 of the Code of Federal Regulations (10 CFR 430.27(l)), DOE gives notice of the issuance of its decision and order as set forth below. The decision and order grants Whirlpool a waiver from the applicable residential dishwasher test procedure in 10 CFR part 430, subpart B, appendix C for certain basic models of dishwashers with built-in or integrated water softeners, provided that Whirlpool tests and rates such products using the alternate test procedure described in this notice. Today's decision prohibits Whirlpool from making representations concerning the energy efficiency of these products unless the product has been tested consistent with the provisions and restrictions in the alternate test procedure set forth in the decision and order below, and the representations fairly disclose the test results. Distributors, retailers, and private labelers are held to the same standard when making representations regarding the energy efficiency of these products. 42 U.S.C. 6293(c).

Issued in Washington, DC, on September 30, 2010.

**Cathy Zoi,**

*Assistant Secretary, Energy Efficiency and Renewable Energy.*

**Decision and Order**

*In the Matter of:* Whirlpool Corporation (Case No. DW-004).

**I. Background and Authority**

Title III of the Energy Policy and Conservation Act (EPCA) sets forth a variety of provisions concerning energy efficiency. Part A of Title III provides for the "Energy Conservation Program for Consumer Products Other Than Automobiles." 42 U.S.C. 6291-6309. Part A includes definitions, test procedures, labeling provisions, energy conservation standards, and the

authority to require information and reports from manufacturers. Further, Part A authorizes the Secretary of Energy to prescribe test procedures that are reasonably designed to produce results that measure energy efficiency, energy use, or estimated operating costs, and that are not unduly burdensome to conduct. 42 U.S.C. 6293(b)(3). The test procedure for residential dishwashers, the subject of today's notice, is contained in 10 CFR part 430, subpart B, appendix C.

DOE's regulations for covered products contain provisions allowing a person to seek a waiver for a particular basic model from the test procedure requirements for covered consumer products when (1) the petitioner's basic model for which the petition for waiver was submitted contains one or more design characteristics that prevent testing according to the prescribed test procedure, or (2) when prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption characteristics as to provide materially inaccurate comparative data. 10 CFR 430.27(a)(1). Petitioners must include in their petition any alternate test procedures known to the petitioner to evaluate the basic model in a manner representative of its energy consumption characteristics. 10 CFR 430.27(b)(1)(iii).

The Assistant Secretary for Energy Efficiency and Renewable Energy (the Assistant Secretary) may grant a waiver subject to conditions, including adherence to alternate test procedures. 10 CFR 430.27(l). Waivers remain in effect pursuant to the provisions of 10 CFR 430.27(m).

Any interested person who has submitted a petition for waiver may also file an application for interim waiver of the applicable test procedure requirements. 10 CFR 430.27(a)(2). The Assistant Secretary will grant an interim waiver request if it is determined that the applicant will experience economic hardship if the 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. 10 CFR 430.27(g).

**II. Whirlpool's Petition for Waiver: Assertions and Determinations**

On March 16, 2010, Whirlpool filed a petition for waiver from the test procedure applicable to residential dishwashers set forth in 10 CFR Part 430, subpart B, appendix C. The products covered by the petition employ

integrated or built-in water softeners. Whirlpool asserted that the DOE test procedure does not account for the energy and water use incurred by water softener regeneration. Whirlpool's petition was published in the **Federal Register** on July 15, 2010. 75 FR 41167. DOE received one comment, from General Electric Appliances (GE), on the Whirlpool petition, discussed below.

Whirlpool claims that water softeners can prevent consumer behaviors that consume additional energy and water. Whirlpool asserts that a dishwasher equipped with a water softener will minimize pre-rinsing and rewashing, and that consumers will have less reason to run their dishwasher through a clean-up cycle periodically. Further, Whirlpool claims that the amount of water consumed by the regeneration operation of a water softener in a dishwasher is very small, but that it varies significantly depending on the adjustment of the softener.

The regeneration operation takes place infrequently, and the frequency is related to the level of water hardness. According to Whirlpool, including water use attributable to the regeneration operation in the measurement of water consumption during an individual energy test cycle could overstate water use by as much as 12 percent, and energy use by as much as 6 percent. In view of the small amount of water consumed during softener regeneration and the relative infrequency of the regeneration operation, Whirlpool requests approval to measure water consumption of its dishwashers equipped with water softeners without including the water consumed by the dishwasher during softener regeneration. This is the approach used in European Standard EN 50242, "Electric Dishwashers for Household Use—Methods for Measuring the Performance" (EN 50242), which Whirlpool recommends.

The current DOE test procedure only registers water consumption from softener regeneration in a small fraction of test runs, producing variable results. As a result, and using the information provided by Whirlpool, DOE has determined that test results may provide materially inaccurate comparative data. DOE has considered EN 50242 as an alternate test procedure. This standard excludes water use due to softener regeneration from its water use efficiency measure. Use of EN 50242 would provide repeatable results, but would slightly underestimate the energy and water use of these models. DOE notes that if water consumption of a regeneration operation is to be apportioned across all cycles of

operation, then manufacturers would need to make calculations regarding average water hardness and average water consumptions due to regeneration operations that are not currently provided for or allowed by the test procedure. In its petition, Whirlpool estimated that, on average, 23 gallons/year of water and 4 kWh/year would be consumed in softener regeneration. These values are based on internal testing conducted by Whirlpool.

GE, in its comment on Whirlpool's petition, stated that if water consumption occurring during regeneration operations were excluded entirely, it could lead to ambiguity in the test procedure. GE recommended requiring an additive factor to overall annual energy and water consumption that captures representative energy and water use for softener regeneration. In the alternate test procedure DOE granted in July 2010 in response to Whirlpool's application for interim waiver, DOE added the constant values of 23 gallons/year of water and 4 kWh/year to the energy consumption measured by appendix C. These values were based on Whirlpool's internal testing. DOE is retaining these additive constants in its alternate test procedure. GE also stated that the test procedure could ensure that regeneration does not occur during the three runs required in the test cycle by specifying that the start of the DOE test should begin on a cycle immediately following a regeneration cycle. DOE agrees that this provision would help ensure repeatability of the test procedure, and is incorporating it into its alternate test procedure.

### III. Consultations With Other Agencies

DOE consulted with the Federal Trade Commission (FTC) staff concerning the Whirlpool petition for waiver. The FTC staff did not have any objections to granting a waiver to Whirlpool.

### IV. Conclusion

After careful consideration of all the material that was submitted by Whirlpool, the comment submitted by GE, and consultation with the FTC staff, it is ordered that:

(1) The petition for waiver submitted by the Whirlpool Corporation (Case No. DW-004) is hereby granted as set forth in the paragraphs below.

(2) Whirlpool shall not be required to test or rate the following models on the basis of the current test procedures contained in 10 CFR part 430, subpart B, appendix C. Instead, it shall be required to test and rate such products according to the alternate test procedure as set forth in paragraph (3) below:

*KitchenAid brand:*

KUDE60SXSS

KUDS30SXSS

*Kenmore brand:*

14052K01

14053K01

14059K01

14062K01

14063K01

14069K01

(3) Whirlpool shall be required to test the products listed in paragraph (2) above according to the test procedures for dishwashers prescribed by DOE at 10 CFR part 430, appendix C, except that, for the Whirlpool products listed in paragraph (2) only:

In Section 4.1, *Test cycle*, add at the end, "The start of the DOE test should begin on a cycle immediately following a regeneration cycle."

In Section 4.3, the water energy consumption, *W* or *W<sub>g</sub>*, is calculated based on the water consumption as set forth below:

§ 4.3 *Water consumption*. Measure the water consumption, *V*, expressed as the number of gallons of water delivered to the machine during the entire test cycle, using a water meter as specified in section 3.3 of this Appendix. Where the regeneration of the water softener depends on demand and water hardness, and does not take place every cycle, Whirlpool shall measure the water consumption of dishwashers having water softeners without including the water consumed by the dishwasher during softener regeneration. If a regeneration operation takes place within the test, the water consumed by the regeneration operation shall be disregarded when declaring water and energy consumption, but constant values of 23 gallons/year of water and 4 kWh/year of energy shall be added to the values measured by appendix C.

(4) Representations. Whirlpool may make representations about the energy use of its dishwashers containing integrated or built-in water softeners for compliance, marketing, or other purposes only to the extent that such products have been tested in accordance with the provisions outlined above and such representations fairly disclose the results of such testing.

(5) This waiver shall remain in effect consistent with the provisions of 10 CFR 430.27(m).

(6) This waiver is issued on the condition that the statements, representations, and documentary materials provided by the petitioner are valid. DOE may revoke or modify this waiver at any time if it determines the factual basis underlying the petition for waiver is incorrect, or the results from

the alternate test procedure are unrepresentative of the basic models' true energy consumption characteristics.

Issued in Washington, DC, on September 30, 2010.

**Cathy Zoi,**

*Assistant Secretary, Energy Efficiency and Renewable Energy.*

[FR Doc. 2010-25272 Filed 10-6-10; 8:45 am]

**BILLING CODE 6450-01-P**

## ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2005-0163; FRL-8848-1]

### Aldicarb; Notice of Receipt of Request to Voluntarily Cancel a Pesticide Registration

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of a request by the registrant to voluntarily cancel all of the registrations for aldicarb products held by Bayer CropScience. The request asks for the deletion at various times of aldicarb use in or on citrus, cotton, dry beans, peanuts, potatoes, soybeans, sugar potatoes, sugar beets, and sweet potatoes. Because these uses constitute all the remaining uses of aldicarb, Bayer's request would result in the termination of the last aldicarb product registered for use in the United States. EPA intends to grant this request at the close of the comment period for this announcement unless the Agency receives substantive comments within the comment period that would merit its further review of the request. If this request is granted, any sale, distribution, or use of products listed in this notice will be permitted after the registration has been canceled only if such sale, distribution, or use is consistent with the terms as described in the final order.

**DATES:** Comments must be received on or before November 8, 2010.

**ADDRESSES:** Submit your comments, identified by docket identification (ID) number EPA-HQ-OPP-2005-0163, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

- *Mail:* Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

- *Delivery:* OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305-5805.

*Instructions:* Direct your comments to docket ID number EPA-HQ-OPP-2005-0163. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [regulations.gov](http://www.regulations.gov) or e-mail. The [regulations.gov](http://www.regulations.gov) Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through [regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* All documents in the docket are listed in the docket index available at <http://www.regulations.gov>. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at <http://www.regulations.gov>, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Bldg.),

2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305-5805.

**FOR FURTHER INFORMATION CONTACT:** K. Avivah Jakob, Pesticide Re-evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 305-1328; fax number: (703) 308-6467; e-mail address: [jakob.kathryn@epa.gov](mailto:jakob.kathryn@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. General Information

###### A. Does this action apply to me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

###### B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through [regulations.gov](http://www.regulations.gov) or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

- Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a