

DEPARTMENT OF DEFENSE**Department of the Army; Corps of Engineers****Intent To Prepare a Draft Supplemental Environmental Impact Statement/ Environmental Impact Report for the Yuba River Basin Project, Yuba County, CA**

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: In accordance with the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA), the U.S. Army Corps of Engineers (Corps), Sacramento District, is preparing a Draft Supplemental Environmental Impact Statement/Environmental Impact Report (SEIS/EIR) to evaluate modifications to the previously authorized plan to reduce flood damages in the lower Yuba River Basin, part of the Feather River Basin, and the city of Marysville in Yuba County, California. The modifications are needed to resolve previously unknown levee foundation problems in portions of the authorized project, thereby ensuring the level of flood protection previously planned. The basic study authority for the Yuba River Basin study was provided under the Flood Control Act of 1962.

ADDRESSES: Send written comments and suggestions concerning this study to Ms. Kim Stevens, U.S. Army Corps of Engineers, Sacramento District, Attn: Planning Division (CESPK-PD-R), 1325 J Street, Sacramento, California 95814. Requests to be placed on the mailing list should also be sent to this address.

FOR FURTHER INFORMATION CONTACT: Ms. Kim Stevens, E-mail at Kim.L.Stevens@usace.army.mil, telephone (916) 557-7332, or fax (916) 557-7856.

SUPPLEMENTARY INFORMATION:

1. *Public Involvement:* The Yuba River Basin project will be coordinated between Federal, State, and local governments; local stakeholders; special interest groups; and any other interested individuals and organizations. The Corps will announce availability of the draft supplemental document in the **Federal Register** and other media, and will provide the public, organizations, and agencies with an opportunity to submit comments, which will be addressed in the Final SEIS/EIR. A 45-day public review period will be provided for individuals and agencies to review and comment on the SEIS/EIR. All interested parties should respond to this notice and provide a current

address if they wish to be notified of the SEIS/EIR circulation.

2. *Project Information:* The Yuba River Basin is located in western Yuba County about 50 miles north of Sacramento. The project focuses on approximately 21 miles of levees along the Yuba and Feather Rivers in the vicinity of Marysville, California. The Yuba River Basin project area is divided into three reaches: reach 1—Yuba River/Feather River; reach 2—Feather River; and reach 3—Marysville ring levee.

The Feasibility Report and Final EIS/EIR were completed in April 1998. Congress authorized the project in the Water Resources Development Act of 1999, and the Record of Decision was signed in June 2000. The authorized project included specific levee modifications on 6.1 miles of the left bank of the Yuba River upstream of the confluence with the Feather River; 10 miles of levee on the left bank of the Feather River downstream of the confluence of the Yuba River; and 5 miles of the Marysville ring levee. The levee modification work as authorized was intended to bring the level of protection for these levees up to about a 200-year level of protection.

Since the final Yuba River Basin project was authorized, geotechnical investigations and new hydrology have identified previously unknown levee foundation problems in portions of the specifically authorized project. Because flooding is still a significant problem for the affected communities along the Yuba and Feather Rivers, the State of California Reclamation Board has requested that the Corps initiate a reevaluation of the project.

3. *Proposed Action:* The proposed action would be limited to a reevaluation of the elements of the authorized project and the design changes required to provide the level of protection previously planned.

4. *Alternatives:* Potential alternatives to reduce flood damages include: (1) No Action, (2) Authorized Project, and (3) Proposed Project. Under the Authorized Project, no modifications would be made to the features of alternative 3 as described in the 1998 Feasibility Report and Final EIS/EIR. Under the Proposed Project, several modifications would be made to the Authorized Project, including deeper slurry walls, deleting some berms, installing some new slurry walls, increasing some berm widths, adding impervious fill and drain blankets to the levees, relocating slurry walls from the levee toe to crown, and reshaping some levees.

Dated: February 24, 2004.

Michael J. Conrad, Jr.,

Colonel, Corps of Engineers, District Engineer.
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DEPARTMENT OF ENERGY**Office of Energy Efficiency and Renewable Energy****Energy Conservation Program for Consumer Products: Decision and Order Granting a Waiver From the DOE Clothes Washer Test Procedure to Fisher & Paykel (Case No. CW-012)**

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

ACTION: Notice of decision and order.

SUMMARY: Notice is given of the Decision and Order granting a Waiver to Fisher & Paykel Appliances Limited (Fisher & Paykel) from the existing Department of Energy (DOE or Department) clothes washer test procedure for its IW model clothes washer which has an adaptive control system.

FOR FURTHER INFORMATION CONTACT:

Barbara Twigg, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, EE-2J, 1000 Independence Avenue, SW., Washington, DC 20585-0121, (202) 586-8714, email: barbara.twigg@ee.doe.gov; or Francine Pinto, Esq., U.S. Department of Energy, Office of General Counsel, GC-72, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-7432, email: Francine.Pinto@hq.doe.gov.

SUPPLEMENTARY INFORMATION: In accordance with 10 CFR 430.27, notice is hereby given of the issuance of the Decision and Order as set out below. In the Decision and Order, Fisher & Paykel has been granted a Waiver from the existing Department of Energy clothes washer test procedure for the company's clothes washer model IW which has an adaptive control system. The Waiver allows Fisher & Paykel to use a modified test procedure for rating its IW clothes washer model. Fisher & Paykel shall be allowed to test its IW clothes washer using the default cycle, the midpoint of the five settings controlled by the washer's "How Dirty" button. That cycle is the closest equivalent to the energy test cycle for washing cotton or linen clothes used in 10 CFR part 430, subpart B, appendix J1.

Issued in Washington, DC, on March 12, 2004.

David K. Garman,

Assistant Secretary, Energy Efficiency and Renewable Energy.

Decision and Order

Department of Energy

Office of Energy Efficiency and Renewable Energy

In the Matter of: Fisher & Paykel.
(Case No. CW-012)

Background: Title III of the Energy Policy and Conservation Act (EPCA) sets forth a variety of provisions designed to improve energy efficiency. Part B of Title III (42 U.S.C. 6291-6309) provides for the Energy Conservation Program for Consumer Products Other Than Automobiles. Among its provisions, it requires DOE to prescribe standardized test procedures to measure the energy consumption of certain consumer products, including clothes washers. The intent of the test procedures is to provide a comparable measure of energy consumption that will assist consumers in making purchasing decisions. The test procedures for clothes washers are set forth in 10 CFR part 430, subpart B, appendix J1.

The Department's regulations in 10 CFR 430.27 set forth a process by which an interested person may seek a waiver and an interim waiver from the test procedure requirements for a covered consumer product. The waiver process allows the Assistant Secretary for Conservation and Renewable Energy (now known as the Assistant Secretary for Energy Efficiency and Renewable Energy) to waive temporarily test procedures for a particular basic model when a petitioner shows that the basic model contains one or more design characteristics which prevent testing according to the prescribed test procedures, or when the 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. Waivers generally remain in effect until a revised test procedure becomes effective, thereby resolving the problem that is the subject of the waiver. 10 CFR 430.27(l)

An Interim Waiver will be granted by the Assistant Secretary for Energy Efficiency and Renewable Energy if it is determined that the applicant will experience economic hardship if the Application for 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). An Interim Waiver remains in effect for a period of 180 days from the date of issuance or until DOE issues its determination on the Petition for Waiver, whichever is sooner, and may be extended for an additional 180 days, if necessary. 10 CFR 430.27(h)

In addition to the waiver process outlined in 10 CFR 430.27, the clothes washer test procedure published August 27, 1997, specifically requires manufacturers of clothes washers with an adaptive control system, other than an adaptive water fill control system, to obtain a waiver to establish an acceptable test procedure for each such clothes washer. 62 FR 45501, 45514. Neither Appendix J (in effect through December 31, 2003) nor Appendix J1 (effective January 1, 2004) of that test procedure provides a means for determining the energy consumption of a clothes washer with an adaptive control system.

On March 26, 2003, Fisher & Paykel filed an Application for Interim Waiver and a Petition for Waiver regarding its clothes washer model IW which has an adaptive control system that affects more than the water fill and cannot be tested accurately using the existing test procedure. The Department granted the Interim Waiver on October 30, 2003, and published its decision in the **Federal Register** on November 7, 2003. 68 FR 63075. In the same **Federal Register** notice, the Department published Fisher & Paykel's Petition for Waiver, and solicited comments, data, and information respecting the petition.

Fisher & Paykel requested the waiver because its clothes washer model IW does not have the conventional "normal" cycle used by the DOE clothes washer test procedure set forth in 10 CFR, Part 430, Subpart B, Appendix J, or the energy test cycle for washing cotton or linen clothes used in Appendix J1. Instead, Fisher & Paykel proposed an alternate test cycle that would be equivalent to the normal cycle and the energy test cycle, the default cycle that begins when a user pushes the power button to start the model IW clothes washer. This default cycle is the midpoint of the five settings controlled by the washer's "How Dirty" button, setting three. This waiver only confirms which test cycle to use. Fisher & Paykel will then follow the remaining steps of the existing test procedure to determine the energy consumption of the clothes washer.

Comments and FTC Consultation: The Department did not receive any comments on the Petition for Waiver.

The Department, as required, consulted with the Federal Trade Commission (FTC) concerning Fisher & Paykel's petition. The FTC did not have any objections to the issuance of the waiver to Fisher & Paykel.

Conclusion: After careful consideration of all the material that Fisher & Paykel submitted and consultation with the FTC, it is ordered that:

(1) The "Petition for Waiver" filed by Fisher & Paykel Appliances Limited (Case No. CW-012) is hereby granted as set forth in paragraph (2) below.

(2) Fisher & Paykel shall be permitted to test its adaptive control clothes washer model IW on the basis of the test procedure specified in 10 CFR part 430 subpart B, appendix J1, with one modification to section 1.7 which specifies the Energy test cycle. Because model IW does not have the specified Energy test cycle, described in section 1.7 as the cycle recommended by the manufacturer for washing cotton or linen clothes, Fisher & Paykel shall test its clothes washer model IW using the default cycle which begins when a consumer presses the power/start button and does not manually select an alternative "How Dirty" setting. This default cycle is the midpoint of the five settings controlled by the washer's "How Dirty" button, setting three.

With the exception of the modification set forth above, Fisher & Paykel shall comply in all respects with the test procedure requirements specified in 10 CFR part 430 subpart B, appendix J1.

(3) The Waiver shall remain in effect from the date of issuance of this Order until DOE prescribes a final test procedure appropriate to adaptive control clothes washers.

(4) This Waiver applies only to Fisher & Paykel's testing of its clothes washer model IW.

(5) This Waiver is based upon the presumed validity of statements, allegations, and documentary materials submitted by the petitioner. This Waiver may be revoked or modified at any time upon a determination that the factual basis underlying the Petition is incorrect.

Effective March 12, 2004, this Waiver supersedes the Interim Waiver granted Fisher & Paykel on November 7, 2003. 68 FR 63075 (Case No. CW-012).

Issued in Washington, DC, on March 12, 2004.

David K. Garman,

Assistant Secretary, Energy Efficiency and Renewable Energy.

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