

February 7, 2003

Mr. Hampton Newsome  
Attorney, Division of Enforcement  
Federal Trade Commission,  
Bureau of Consumer Protection, Mail Stop NJ 2240  
600 Pennsylvania Avenue, NW  
Washington, DC 20580

Dear Mr. Newsome:

On behalf of the Association of Home Appliance Manufacturers (AHAM), and the below listed companies, we request regulatory action from the FTC in order to enhance consumer understanding and minimize burden on industry and retailers during the upcoming transition of clothes washer energy standards and test procedures. AHAM represents the manufacturers of over 99% of residential clothes washers sold in the U.S.

As you know, significantly higher efficiency standards for residential clothes washers become effective January 1, 2004. These standards will be based on new DOE test procedures, referred to as "J1" procedures. The current DOE test procedures are referred to as "J" procedures. The test procedures were revised to better reflect current usage habits by incorporating updated temperature utilization factors which are more appropriate for today's designs. Therefore, the J1 procedures give a better representation of the performance of today's clothes washers.

The J1 procedure utilizes an energy descriptor called the Modified Energy Factor (MEF), whereas J utilizes a descriptor called Energy Factor (EF). Since the descriptors are uniquely different, and are used to determine the information that goes on the FTC EnergyGuide label, consumers will not be able to compare labels using the two different test procedures. (You may be aware of minor revisions being made to the J1 procedure regarding the test cloth used, but those changes will have no affect on our requests herein.)

This is creating an unprecedented situation, where the efficiency standard and the test procedure change at the same time. These events are very positive from the consumer viewpoint because many new energy efficient models will be available beginning this year. Because there are hundreds of new models, the transition must take place throughout the course of 2003. But, the transition to these new models as regards testing and labeling could be very confusing and misleading to consumers, and unduly burdensome on manufacturers unless FTC takes action as proposed.

This situation has the potential to cause significant testing burden on manufacturers as they introduce new models during 2003. Under the current regulations, they would have to test and rate these models to the J procedure, then test and rate them again to the J1 procedure for 2004.

Since several samples of each basic model need to be tested in order to determine statistically valid ratings, this duplicative testing would result in tremendous laboratory and staff resources for hundreds of new models.

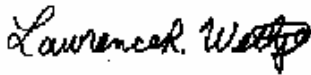
Furthermore, there will be confusion regarding the transition to the J1 FTC EnergyGuide label. If manufacturers are required to wait until 2004 to use a J1 label on new models introduced during 2003, which are compliant with the new standard, this will result in many retail display units that will have the J label on them well into 2004 and beyond. Retail floor models are not changed frequently. This will cause confusion for consumers as they try to compare ratings.

We have discussed our labeling recommendations with Consumers Union to get a consumer's perspective, and they are supportive of our proposed approach as attached. This will result in the least confusion to consumers and minimize the burden on manufacturers. We respectfully request that FTC take the actions and issue the notices described in the attached.

Because time is of the essence and the transition process is already underway, we are asking that you begin implementing recommendations 1 and 5 on the attached page as soon as possible. Manufacturers will follow with changes 2 and 6. Changes 3 and 4 need to be made effective no later than May 1, 2003, or earlier if possible. We will be submitting a mock up of the proposed J1 label in a few days.

All of our members, as listed below, are committed to take coordinating voluntary actions to make this approach work for consumers and the FTC. Thank you for your assistance in these matters.

Sincerely,



Lawrence R. Wethje

AHAM members agreeing to the above:

- Alliance Laundry Systems
- Electrolux Home Products
- Fisher & Paykel Ltd.
- GE Appliances
- Maytag Appliances
- Miele Corp.
- Whirlpool Corp.

## AHAM Recommendations Regarding Transition to J1

- 1) We request a rule change to or exemption from 16 CFR Sections 305.5 and 305.11 (a) (5) (e). In order to avoid the unnecessary test burden of having to test products introduced during 2003 per both the J and J1 test procedure, all clothes washers compliant with the 2004 DOE energy requirements should be permitted to be tested and labeled in accordance with only the J1 test procedure, beginning May 1, 2003 or as soon as possible.
- 2) Before the revised labeling regulation per number 1 above is finalized, manufacturers intend to test new compliant models per J1 and correlate results for a J label with limited J testing. This would end as soon as the rule change is promulgated or exemption granted.
- 3) We request an exemption from or rule change to 16 CFR 305.11 (a)(5)(k) for a revised label. A new "J1" EnergyGuide label should be adapted from the current "J" label. An example of the proposed revised label will be provided shortly. Until new Ranges of Comparability can be established, it would display the same Ranges of Comparability as the current J label, based on the minimum and maximum kWh associated with the EF values in the marketplace.
- 4) The J1 label should incorporate wording to inform consumers that the energy figures and operating costs are not to be compared with those for clothes washers tested to the "J" procedure. **This label should be permanent**, to avoid having to change back to a conventional label again and possibly creating additional confusion while old label products are still in the marketplace.
- 5) We request amendment of 16 CFR 305.8 (b) of the labeling rule. The annual submission of data by clothes washer manufacturers to FTC to determine the Ranges of Comparability should be moved from March to October so that new J1 ranges can be established as soon as practical, and to synchronize reporting with NRCAN in Canada. This action will facilitate publication of timely, fresh Ranges of Comparability reflecting the new J1 test procedure.
- 6) Industry agrees to voluntarily provide in all DOE, FTC and NRCAN reports a J/J1 identifier column added throughout 2003 so that government officials will know the basis for the rating.

Respectfully submitted by AHAM  
February 7, 2003