

Chinese origin textile and apparel products are, due to market disruption, threatening to impede the orderly development of trade in these products to request consultations with China with a view to easing or avoiding the disruption. Pursuant to this provision, if the United States requests consultations with China, it must, at the time of the request, provide China with a detailed factual statement showing “(1) the existence or threat of market disruption; and (2) the role of products of Chinese origin in that disruption.” Beginning on the date that it receives such a request, China must restrict its shipments to the United States to a level no greater than 7.5 percent (6 percent for wool product categories) above the amount entered during the first 12 months of the most recent 14 months preceding the request. If exports from China exceed that amount, the United States may enforce the restriction.

The Committee has published procedures (the Procedures) it follows in considering requests for Accession Agreement textile and apparel safeguard actions (68 FR 27787, May 21, 2003; 68 FR 49440, August 18, 2003), including the information that must be included in such requests in order for the Committee to consider them.

On November 19, 2004, the Requestors asked the Committee to reapply an Accession Agreement textile and apparel safeguard action on imports from China of knit fabric (Category 222) on the grounds that an anticipated increase in imports of knit fabric after December 23, 2004, threatens to disrupt the U.S. market for knit fabric. The request is available at [http://otexa.ita.doc.gov/Safeguard\\_intro.htm](http://otexa.ita.doc.gov/Safeguard_intro.htm). In light of the considerations set forth in the Procedures, the Committee has determined that the Requestors have provided the information necessary for the Committee to consider the request.

The Committee is soliciting public comments on the request, in particular with regard to whether there is a threat of disruption to the U.S. market for knit fabric and, if so, the role of Chinese-origin knit fabric in that disruption. To this end, the Committee seeks relevant information addressing factors such as the following, which may be relevant in the particular circumstances of this case, involving a product under a quota that will expire on December 23, 2004: (1) Whether imports of knit fabric from China are entering, or are expected to enter, the United States at prices that are substantially below prices of the like or directly competitive U.S. product, and whether those imports are likely to have a significant depressing or suppressing effect on domestic prices of the like or

directly competitive U.S. product or are likely to increase demand for further imports from China; (2) whether exports of Chinese-origin knit fabric to the United States are likely to increase substantially and imminently (due to existing unused production capacity, to capacity that can easily be shifted from the production of other products to the production of knit fabric, or to an imminent and substantial increase in production capacity or investment in production capacity), taking into account the availability of other markets to absorb any additional exports; (3) whether Chinese-origin knit fabrics that are presently sold in the Chinese market or in third-country markets will be diverted to the U.S. market in the imminent future (for example, due to more favorable pricing in the U.S. market or to existing or imminent import restraints into third country markets); (4) the level and the extent of any recent change in inventories of knit fabric in China or in U.S. bonded warehouses; (5) whether conditions of the domestic industry of the like or directly competitive product demonstrate that market disruption is likely (as may be evident from any anticipated factory closures or decline in investment in the production of knit fabric, and whether actual or anticipated imports of Chinese-origin knit fabric are likely to affect the development and production efforts of the U.S. knit fabric industry; and (6) whether U.S. managers, retailers, purchasers, importers, or other market participants have recognized Chinese producers of knit fabric as potential suppliers (for example, through pre-qualification procedures or framework agreements).

Comments may be submitted by any interested person. Comments must be received no later than January 18, 2005. Interested persons are invited to submit ten copies of such comments to the Chairman, Committee for the Implementation of Textile Agreements, Room 3001A, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC 20230.

The Committee will protect any business confidential information that is marked business confidential from disclosure to the full extent permitted by law. To the extent that business confidential information is provided, two copies of a non-confidential version must also be provided in which business confidential information is summarized or, if necessary, deleted. Comments received, with the exception of information marked “business confidential”, will be available for inspection between Monday-Friday, 8:30 a.m. and 5:30 p.m. in the Trade

Reference and Assistance Center Help Desk, Suite 800M, USA Trade Information Center, Ronald Reagan Building, 1300 Pennsylvania Avenue, NW., Washington, DC, (202) 482-3433.

The Committee will make a determination within 60 calendar days of the close of the comment period as to whether the United States will request consultations with China. If the Committee is unable to make a determination within 60 calendar days, it will cause to be published a notice in the **Federal Register**, including the date by which it will make a determination. If the Committee makes a negative determination, it will cause this determination and the reasons therefore to be published in the **Federal Register**. If the Committee makes an affirmative determination that imports of Chinese-origin knit fabric threaten to disrupt the U.S. market, the United States will request consultations with China with a view to easing or avoiding the disruption.

**James C. Leonard, III**,  
*Chairman, Committee for the Implementation of Textile Agreements.*

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## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### Modification to Announcement of Intent To Initiate the Process To Remove Aeronautical Information From Public Sale and Distribution

**AGENCY:** National Geospatial-Intelligence Agency (NGA), Department of Defense.

**ACTION:** Notice modification.

**SUMMARY:** After initial feedback from the public on NGA's notice in Federal Register Volume 69, Number 222, pages 67546-67547, NGA has determined that a period of public comment will benefit the final decision on this policy issue. Therefore, NGA is inviting public comment on the proposed action to withdraw aeronautical data and products from public distribution. The period of comment will be open from the date of this Register until 30 June 2005. NGA will consider all comments when making the final decision to go forward with this proposed action, in part, in whole, or not at all.

**DATES:** Period of Public Comment: December 17, 2004 to 30 June 2005. Proposed Implementation Date of final Decision: 1 October 2005.

**ADDRESSES:** To make sure your comments and related material are entered only once in the docket please submit them by only one of the following means:

(1) By e-mail to [aero.ocr@nga.mil](mailto:aero.ocr@nga.mil); or

(2) By mail to: National Geospatial-Intelligence Agency, Mail Stop D-111, Attn: Public Release of Aeronautical Products, 4600 Sangamore Road, Bethesda, MD 20816-5003.

Dated: December 13, 2004.

**Jeannette Owings-Ballard,**

*OSD Federal Register Liaison Officer,  
Department of Defense.*

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## DEPARTMENT OF ENERGY

### Office of Energy Efficiency and Renewable Energy

#### Energy Conservation Program for Consumer Products: Decision and Order Denying the American Water Heater Company Petition for Waiver of the DOE Test Procedure for Measuring the Energy Consumption of Water Heaters (Case No. WH-010)

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

**ACTION:** Decision and Order; Denial of Petition for Waiver.

**SUMMARY:** Today's notice denies the American Water Heater Company's (American) Petition for Waiver from the U.S. Department of Energy (DOE or the Department) Uniform Test Method for Measuring the Energy Consumption of Water Heaters. American claims the DOE test method does not allow for an accurate representation of the true energy consumption of its residential water heaters fitted with an automatic, adaptive, control, a microprocessor-based control system. The Department does not believe the current test procedure misrepresents the true energy consumption of the American water heater equipped with an automatic, adaptive, electronic control.

**ADDRESSES:** To read background documents or comments received, go to the U.S. Department of Energy, Forrestal Building, Room 1J-018 (Resource Room of the Building Technologies Program), 1000 Independence Avenue, SW., Washington, DC, (202) 586-9127, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Please call Ms. Brenda Edwards-Jones at the above telephone number for additional information regarding visiting the Resource Room. Please note:

The Department's Freedom of Information Reading Room (formerly Room 1E-190 at the Forrestal Building) is no longer housing rulemaking materials.

#### FOR FURTHER INFORMATION CONTACT:

Mohammed Khan, U.S. Department of Energy, Building Technologies Program, Mail Stop EE-2J, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585-0121, (202) 586-7892; e-mail:

[Mohammed.Khan@ee.doe.gov](mailto:Mohammed.Khan@ee.doe.gov); or

Francine Pinto, Esq., U.S. Department of Energy, Office of General Counsel, Mail Stop GC-72, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585-0103, (202) 586-9507; e-mail:

[Francine.Pinto@hq.doe.gov](mailto:Francine.Pinto@hq.doe.gov).

**SUPPLEMENTARY INFORMATION:** In accordance with 10 CFR part 430.27(l), notice is hereby given of the issuance of the Decision and Order as set out below. In the Decision and Order, American is denied a Waiver from the Department's Uniform Test Method for Measuring the Energy Consumption of Water Heaters for its water heaters that have automatic, adaptive, electronic controls.

Issued in Washington, DC, on December 14, 2004.

**David K. Garman,**

*Assistant Secretary, Energy Efficiency and Renewable Energy.*

#### Decision and Order

In the matter of: American Water Heater Company (American). (Case No. WH-010)

#### Background

Title III of the Energy Policy and Conservation Act (EPCA) sets forth a variety of provisions concerning 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" which requires, among other things, that DOE prescribe standardized test procedures to measure the energy consumption of certain consumer products, including water heaters. The relevant DOE test procedure for purposes of today's decision and order is "Uniform Test Method for Measuring the Energy Consumption of Water Heaters" (current test procedure). The current test procedure is set forth in 10 CFR part 430, subpart B, Appendix E. It prescribes a method for characterizing the energy requirements of all types of water heaters and yields model-specific energy efficiency information that can aid consumers in their purchasing decisions.

The Department's regulations contain provisions allowing a person to seek a waiver from the test procedure requirements for covered consumer products and electric motors. These provisions are set forth in 10 CFR 430.27 and 10 CFR 431.29. The waiver provisions allow the Assistant Secretary for Energy Efficiency and Renewable Energy (Assistant Secretary) to waive temporarily the test procedure for a particular basic model when a petitioner shows that the basic model contains one or more design characteristics that 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 as to provide materially inaccurate comparative data. (10 CFR 430.27(l)) Waivers generally remain in effect until final test procedure amendments become effective, thereby resolving the problem that is the subject of the waiver.

On January 24, 2002, the Department published a notice in the **Federal Register**, 67 FR 3449, (hereafter referred to as the January 2002 notice) regarding a Petition for Waiver and Application for Interim Waiver received on April 26, 2001, from American. In its Petition for Waiver, American sought modifications to the DOE test procedure to accommodate its electric water heaters which are fitted with an automatic, adaptive, electronic control device said to automatically raise or lower the thermostat set point based on patterns of use. American has developed the automatic, adaptive, electronic control in an effort to reduce standby energy losses. American stated that by lowering the temperature of the water within the water heater tank, standby losses can be reduced. American requested four modifications to the current test procedure:

(1) The inclusion of a qualification test on the automatic, adaptive, electronic control to ensure that it automatically changes the set point;

(2) Change the specified nominal average tank temperature to the lowest stable temperature achieved by the automatic, adaptive, electronic control from the existing constant set point of 135° F;

(3) Change the volume of water of each draw to provide an equal amount of thermal energy as would be provided in each draw of the current procedure; and

(4) Change the equations to compute the energy factor by replacing the 135° F nominal temperature with  $T_{su}$ , the maximum average tank temperature