

**DEPARTMENT OF EDUCATION****List of Correspondence From April 1, 2012, Through June 30, 2012**

**AGENCY:** Office of Special Education and Rehabilitative Services; Department of Education.

**ACTION:** Notice.

**SUMMARY:** The Secretary is publishing the following list of correspondence from the U.S. Department of Education (Department) to individuals during the previous quarter. The correspondence describes the Department's interpretations of the Individuals with Disabilities Education Act (IDEA) or the regulations that implement the IDEA. This list and the letters or other documents described in this list, with personally identifiable information redacted, as appropriate, can be found at: [www2.ed.gov/policy/speced/guid/idea/index.html](http://www2.ed.gov/policy/speced/guid/idea/index.html).

**FOR FURTHER INFORMATION CONTACT:**

Jessica Spataro or Mary Louise Dirrigl. Telephone: (202) 245-7468.

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), you can call the Federal Relay Service (FRS), toll free, at 1-800-877-8339.

Individuals with disabilities can obtain a copy of this list and the letters or other documents described in this list in an accessible format (e.g., braille, large print, audiotope, or compact disc) by contacting Jessica Spataro or Mary Louise Dirrigl at (202) 245-7468.

**SUPPLEMENTARY INFORMATION:** The following list identifies correspondence from the Department issued from April 1, 2012, through June 30, 2012. Under section 607(f) of the IDEA, the Secretary is required to publish this list quarterly in the **Federal Register**. The list includes those letters that contain interpretations of the requirements of the IDEA and its implementing regulations, and it may also include letters and other documents that the Department believes will assist the public in understanding the requirements of the law. The list identifies the date and topic of each letter, and it provides summary information, as appropriate. To protect the privacy interests of the individual or individuals involved, personally identifiable information has been redacted, as appropriate.

**Part B—Assistance for Education of All Children With Disabilities***Section 602—Definitions*

Topic Addressed: Special Education and Related Services

○ Letter dated May 9, 2012, to Special Education Advocate Ellen M. Chambers, regarding whether instruction or services provided in a school district's regular education program can be considered "specially-designed instruction" or "related services."

*Section 612—State Eligibility*

Topic Addressed: Least Restrictive Environment

○ Letter dated June 22, 2012, to Disability Rights Wisconsin Managing Attorney Jeffrey Spitzer-Resnick, regarding how the least restrictive environment requirements apply to work placements that are part of a student's transition plan.

Topic Addressed: Children In Private Schools

○ Letter dated June 13, 2012, to East End Special Education Parents, Inc., President Kathleen Chamberlain, regarding children with disabilities enrolled by their parents in private schools when free appropriate public education (FAPE) is at issue and clarification of child find requirements for parentally placed private school children.

*Section 613—Local Educational Agency Eligibility*

Topic Addressed: Maintenance of Effort

○ Letter dated April 4, 2012, to Center for Law and Education co-director Kathleen Boundy, regarding the local educational agency (LEA) maintenance of

*Section 614—Evaluations, Eligibility Determinations, Individualized Education Programs, and Educational Placements*

Topic Addressed: Revocation Of Consent

○ Letter dated June 6, 2012, to West Virginia attorney James Gerl, regarding whether an LEA may offer mediation when parents revoke consent to the continued provision of special education and related services to their child.

Topic Addressed: Evaluations, Parental Consent, and Reevaluations

○ Letter dated April 9, 2012, to individual (personally identifiable information redacted), regarding various requirements of Part B of the IDEA,

including functional behavioral assessments, out-of-State transfer students, State complaint procedures, and education records.

○ Letter dated April 11, 2012, to Cumberland County Schools Exceptional Children's Programs Executive Director Ruben A. Reyes, regarding timeframes for initial evaluations.

Topic Addressed: Individualized Education Programs for Transfer Students

○ Letter dated April 10, 2012, to Little Cypress-Mauriceville Special Programs Director Robert H. Finch, regarding comparable services for transfer students.

*Section 615—Procedural Safeguards*

Topic Addressed: Prior Written Notice

○ Letter dated April 26, 2012, to Family Soup Executive Director Cindy E. Chandler, regarding when an LEA must provide prior written notice to parents.

Topic Addressed: Resolution Process

○ Letter dated April 23, 2012, to Maryland attorney Michael J. Eig, regarding parent participation in resolution meetings.

Topic Addressed: Discipline Procedures

○ Letter dated June 21, 2012, to New York attorney Edward Sarzynski, regarding how discipline procedures apply to bus suspensions (when school districts temporarily prohibit a student from riding the bus).

○ Letter dated June 22, 2012, to Virginia Department of Education Assistant Superintendent H. Douglas Cox, regarding timelines for expedited due process hearings when school is not in session.

*Section 616—Monitoring, Technical Assistance, and Enforcement*

Topic Addressed: Federal and State Monitoring

○ Letter dated June 26, 2012, to U.S. Congresswoman Lynn C. Woolsey, regarding the Office of Special Education Programs' monitoring of States' compliance with requirements of the IDEA.

*Electronic Access to This Document:* The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: [www.gpo.gov/fdsys](http://www.gpo.gov/fdsys). At this site you can view this document, as well as all other documents of this Department

published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: [www.federalregister.gov](http://www.federalregister.gov). Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: December 26, 2012.

**Michael Yudin,**

*Acting Assistant Secretary for Special Education and Rehabilitative Services.*

[FR Doc. 2012-31435 Filed 12-28-12; 8:45 am]

BILLING CODE 4000-01-P

## DEPARTMENT OF ENERGY

### Office of Energy Efficiency and Renewable Energy

[Case No. DW-009]

#### Notice of Petition for Waiver of BSH Corporation From the Department of Energy Residential Dishwasher Test Procedure, and Grant of Interim Waiver

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

**ACTION:** Notice of petition for waiver, notice of grant of interim waiver, and request for comments.

**SUMMARY:** This notice announces receipt of and publishes the BSH Corporation (BSH) petition for waiver from specified portions of the U.S. Department of Energy (DOE) test procedure for determining the energy consumption of dishwashers. Today's notice also grants an interim waiver of the dishwasher test procedure. Through this notice, DOE also solicits comments with respect to the BSH petition.

**DATES:** DOE will accept comments, data, and information with respect to the BSH petition until January 30, 2013.

**ADDRESSES:** You may submit comments, identified by case number DW-009, by any of the following methods:

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

- *Email:* [AS\\_Waiver\\_Requests@ee.doe.gov](mailto:AS_Waiver_Requests@ee.doe.gov). Include "Case No. DW-009" in the subject line of the message.

- *Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE-2J, Petition for Waiver Case No. DW-009, 1000 Independence Avenue SW.,

Washington, DC 20585-0121. Telephone: (202) 586-2945. Please submit one signed original paper copy.

- *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, 950 L'Enfant Plaza SW., Suite 600, Washington, DC 20024. Please submit one signed original paper copy.

*Docket:* For access to the docket to review the background documents relevant to this matter, you may visit the U.S. Department of Energy, 950 L'Enfant Plaza SW., Washington, DC, 20024; (202) 586-2945, between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays. Available documents include the following items: (1) This notice; (2) public comments received; (3) the petition for waiver and application for interim waiver; and (4) prior DOE waivers and rulemakings regarding similar dishwasher products. Please call Ms. Brenda Edwards at the above telephone number for additional information.

**FOR FURTHER INFORMATION CONTACT:** Mr. Bryan Berringer, U.S. Department of Energy, Building Technologies Program, Mail Stop EE-2J, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585-0121. Telephone: (202) 586-0371. Email: [Bryan.Berringer@ee.doe.gov](mailto:Bryan.Berringer@ee.doe.gov).

Ms. Elizabeth Kohl, 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) 586-7796. Email: [Elizabeth.Kohl@hq.doe.gov](mailto:Elizabeth.Kohl@hq.doe.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background and Authority

Title III, Part B of the Energy Policy and Conservation Act of 1975 (EPCA), Public Law 94-163 (42 U.S.C. 6291-6309, as codified) established the Energy Conservation Program for Consumer Products Other Than Automobiles, a program covering most major household appliances, which includes dishwashers.<sup>1</sup> Part B includes definitions, test procedures, labeling provisions, energy conservation standards, and the authority to require information and reports from manufacturers. Further, Part B authorizes the Secretary of Energy to prescribe test procedures that are reasonably designed to produce results which 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 dishwashers is contained in 10 CFR part 430, subpart B, appendix C.

The regulations set forth in 10 CFR 430.27 contain provisions that enable a person to seek a waiver from the test procedure requirements for covered consumer products. A waiver will be granted by the Assistant Secretary for Energy Efficiency and Renewable Energy (the Assistant Secretary) if it is determined that the basic model for which the petition for waiver was submitted contains one or more design characteristics that prevents testing of the basic model according to the prescribed test procedures, or if 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. 10 CFR 430.27(l). 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. The Assistant Secretary may grant the 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).

The waiver process also allows the Assistant Secretary to grant an interim waiver from test procedure requirements to manufacturers that have petitioned DOE for a waiver of such prescribed test procedures. 10 CFR 430.27(a)(2) An interim waiver must be granted 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 of the petition for waiver. (10 CFR 430.27(g)) An interim waiver remains in effect for 180 days or until DOE issues its determination on the petition for waiver, whichever is sooner. DOE may extend an interim waiver for an additional 180 days. 10 CFR 430.27(h)

##### II. Application for Interim Waiver and Petition for Waiver

On November 30, 2012, BSH submitted the petition for waiver and interim waiver from the test procedure applicable to dishwashers set forth in 10 CFR part 430, subpart B, appendix C. In every respect except the introduction of new model numbers, the petition is identical to petitions submitted by BSH

<sup>1</sup> For editorial reasons, upon codification in the U.S. Code, Part B was re-designated Part A.