

brand clothes dryer models DCVH480E\*, and DCVH485E\*<sup>1</sup>.

Additionally, GE commits to actively support the inclusion of a test procedure applicable to condensing dryers in future versions of 10CFR430, Subpart B, Appendix D and is working with the appliance trade association, the Association of Home Appliance Manufacturers, on a proposal for inclusion in the Department's current clothes dryer energy standards rulemaking.

Thank you for your timely attention to this request for Interim Waiver and Waiver.

Respectfully submitted,

Earl F. Jones, Authorized Representative of GE Consumer & Industrial

#### CERTIFICATION

I hereby certify that GE has notified all clothes dryer manufacturers listed below known to GE to sell products in the United States and forwarded them a copy of this application:

Alliance Laundry Systems, Inc., BSH Home Appliances Corp. (Bosch-Siemens Hausgerate GmbH), Electrolux Home Products, Fisher & Paykel Appliances, Inc., Haier America Trading, L.L.C., LG Electronics USA INC., Miele Appliances, Inc., Samsung Electronics America, Inc. and Whirlpool Corporation.

In addition, GE has provided courtesy copies to: The Association of Home Appliance Manufacturers (AHAM), which is generally interested in DOE proceedings affecting the industry. ACEEE, NRDC and Alliance to Save Energy are not manufacturers but have an interest in energy efficiency requirements for appliances.

Earl F. Jones

[FR Doc. E9-29782 Filed 12-14-09; 8:45 am]

BILLING CODE 6450-01-P

## DEPARTMENT OF ENERGY

[Case No. RF-009]

### Energy Conservation Program for Consumer Products: Decision and Order Granting a Waiver to Electrolux Home Products, Inc. From the Department of Energy Residential Refrigerator and Refrigerator-Freezer Test Procedure (Case No. RF-009)

**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. RF-009) that grants to Electrolux Home Products, Inc. (Electrolux) a Waiver from the DOE electric refrigerator and refrigerator-freezer test procedure, for certain basic models containing relative humidity sensors and adaptive control anti-sweat heaters. Under today's Decision and Order, Electrolux shall be required to test and rate its refrigerator-freezers with adaptive control anti-sweat heaters according to an alternate test procedure that takes this technology into account when measuring energy consumption.

**DATES:** This Decision and Order is effective December 15, 2009.

**FOR FURTHER INFORMATION CONTACT:** Dr. Michael G. Raymond, U.S. Department of Energy, Building Technologies Program, Mailstop EE-2J, 1000 Independence Avenue, SW., Washington, DC 20585-0121. Telephone: (202) 586-9611, E-mail: [AS\\_Waiver\\_Requests@ee.doe.gov](mailto:AS_Waiver_Requests@ee.doe.gov). Francine Pinto, or Michael Kido, U.S. Department of Energy, Office of General Counsel, Mail Stop GC-72, 1000 Independence Avenue, SW., Washington, DC 20585-0103, (202) 586-9507; E-mail: [Francine.Pinto@hq.doe.gov](mailto:Francine.Pinto@hq.doe.gov) or [Michael.Kido@hq.doe.gov](mailto:Michael.Kido@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 Electrolux a Waiver from the applicable residential refrigerator and refrigerator-freezer test procedures at 10 CFR Part 430 subpart B, appendix A1, for certain basic models of refrigerator-freezers with relative humidity sensors and adaptive control anti-sweat heaters, provided that Electrolux tests and rates such products using the alternate test procedure described in this notice. Today's decision prohibits Electrolux from making representations concerning

the energy efficiency of these products unless such product has been tested consistent with the provisions and restrictions in the alternate test procedure set forth in the Decision and Order below, and such representation fairly discloses the results of such testing. 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 December 8, 2009.

Cathy Zoi,

*Assistant Secretary, Energy Efficiency and Renewable Energy.*

#### Decision and Order

*In the Matter of:* Electrolux Home Products, Inc. (Case No. RF-009).

#### Background

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 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))

Today's notice involves residential products under Part A. Relevant to the current Petition for Waiver, the test procedure for residential electric refrigerator-freezers is contained in 10 CFR Part 430, subpart B, appendix A1.

DOE's regulations contain provisions allowing a person to seek a waiver from the test procedure requirements for covered consumer products, when the petitioner's basic model contains one or more design characteristics that prevent testing according to the prescribed test procedure, or when they 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).

<sup>1</sup> In the above models, the 0 in model DCVH480E\* represents the color white, and the 5 in model DCVH485E represents the color silver. The \* would be replaced by a letter depending on the year of manufacture and the other non-energy related identifiers.

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).

The waiver process also allows any interested person who has submitted a petition for waiver to 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).

On November 5, 2008, Electrolux filed a Petition for Waiver from the test procedures applicable to its product line of refrigerator-freezers with relative humidity sensors and adaptive control anti-sweat heaters. The applicable test procedures are contained in 10 CFR Part 430, subpart B, appendix A1—Uniform Test Method for Measuring the Energy Consumption of Electric Refrigerators and Electric Refrigerator-Freezers. Because the existing test procedure under 10 CFR Part 430 takes neither ambient humidity nor adaptive technology into account, it does not accurately measure the energy consumption of Electrolux's new refrigerator-freezers that feature humidity sensors and adaptive control anti-sweat heaters. Consequently, Electrolux has submitted an alternate test to DOE for approval to ensure that it is correctly calculating the energy consumption of this new product line.

On June 4, 2009, DOE granted Electrolux an interim waiver and published Electrolux's petition for waiver. 74 FR 26853. DOE did not receive any comments on the Electrolux petition.

### Assertions and Determinations

#### *Electrolux's Petition for Waiver*

On November 5, 2008, Electrolux filed a Petition for Waiver from the test procedure applicable to residential electric refrigerators and refrigerator-freezers set forth in 10 CFR Part 430, subpart B, appendix A1. Electrolux filed its petition because it is designing new refrigerators and refrigerator-freezers that contain variable anti-sweat heater controls that detect a broad range of

temperature and humidity conditions, and respond by activating adaptive heaters, as needed, to evaporate excess moisture. According to the petitioner, Electrolux's technology is similar to that used by the General Electric Company (GE) and Whirlpool Corporation (Whirlpool) for refrigerator-freezers, which were the subject of Decision and Orders published at 73 FR 10425 (February 27, 2008) and 74 FR 20695 (May 5, 2009), respectively. Electrolux seeks a waiver from the existing DOE test procedure applicable to refrigerators and refrigerator-freezers under 10 CFR Part 430 because it takes neither ambient humidity nor adaptive technology into account. Electrolux stated that the DOE test procedure does not accurately measure the energy consumption of its new refrigerators and refrigerator-freezers that feature variable anti-sweat heater controls and adaptive heaters. Consequently, Electrolux has submitted for DOE approval an alternate test procedure that would allow it to correctly calculate the energy consumption of this new product line.

Electrolux requested that it be permitted to use an alternate test procedure that is the same as that DOE prescribed for GE and Whirlpool refrigerators and refrigerator-freezers that are equipped with a similar technology. The alternate test procedure applicable to the GE and Whirlpool (and now Electrolux) products simulates the energy used by the adaptive heaters in a typical consumer household, as explained in the GE Decision and Order referenced above. As DOE has stated in the past, it is in the public interest to have similar products tested and rated for energy consumption on a comparable basis.

### Consultations With Other Agencies

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

### Conclusion

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

(1) The "Petition for Waiver" submitted by Electrolux Home Products, Inc. (Case No. RF-009) is hereby granted as set forth in the paragraphs below.

(2) Electrolux shall not be required to test or rate the following Electrolux models on the basis of the current test procedures contained in 10 CFR Part 430, subpart B, appendix A1, but shall be required to test and rate such products according to the alternate test

procedure as set forth in paragraph (3) below: EI28BS55IW, EI28BS55IB, EI28BS55IS, EW28BS70IW, EW28BS70IB, EW28BS70IS, EI23BC55IW, EI23BC55IB, EI23BC55IS, EW23BC70IW, EW23BC70IB, EW23BC70IS, E23BC78ISS, E23BC78PIS

(3) Electrolux shall be required to test the products listed in paragraph (2) above according to the test procedures for electric refrigerator-freezers prescribed by DOE at 10 CFR Part 430, appendix A1, except that, for the Electrolux products listed in paragraph (2) only:

(A) The following definition is added at the end of Section 1:

1.13 "Variable anti-sweat heater control" means an anti-sweat heater where power supplied to the device is determined by an operating condition variable(s) and/or ambient condition variable(s).

(B) Section 2.2 is revised to read as follows:

2.2 Operational conditions. The electric refrigerator or electric refrigerator-freezer shall be installed and its operating conditions maintained in accordance with HRF-1-1979, section 7.2 through section 7.4.3.3, except that the vertical ambient temperature gradient at locations 10 inches (25.4 cm) out from the centers of the two sides of the unit being tested is to be maintained during the test. Unless shields or baffles obstruct the area, the gradient is to be maintained from 2 inches (5.1 cm) above the floor or supporting platform to a height one foot (30.5 cm) above the unit under test. Defrost controls are to be operative. The anti-sweat heater switch is to be "off" during one test and "on" during the second test. In the case of an electric refrigerator-freezer equipped with variable anti-sweat heater control, the "on" test will be the result of the calculation described in 6.2.3. Other exceptions are noted in 2.3, 2.4, and 5.1 below.

(C) New section 6.2.3 is inserted after section 6.2.2.2.

6.2.3 Variable anti-sweat heater control test. The energy consumption of an electric refrigerator-freezer with a variable anti-sweat heater control in the "on" position ( $E_{on}$ ), expressed in kilowatt-hours per day, shall be calculated equivalent to:

$$E_{ON} = E + (\text{Heater Contribution}^1)$$

Where E is determined by 6.2.1.1, 6.2.1.2, 6.2.2.1, or 6.2.2.2, whichever is appropriate, with the anti-sweat heater switch in the "off" position.

$$\text{Heater Contribution} = (\text{Anti-sweat Heater Power} \times \text{System-loss Factor}) \times (24 \text{ hrs}/1 \text{ day}) \times (1 \text{ kW}/1000 \text{ W})$$

Where:

$$\begin{aligned} \text{Anti-sweat Heater Power} &= A1 * (\text{Heater Watts at } 5\% \text{RH}) \\ &+ A2 * (\text{Heater Watts at } 15\% \text{RH}) \\ &+ A3 * (\text{Heater Watts at } 25\% \text{RH}) \\ &+ A4 * (\text{Heater Watts at } 35\% \text{RH}) \\ &+ A5 * (\text{Heater Watts at } 45\% \text{RH}) \\ &+ A6 * (\text{Heater Watts at } 55\% \text{RH}) \\ &+ A7 * (\text{Heater Watts at } 65\% \text{RH}) \\ &+ A8 * (\text{Heater Watts at } 75\% \text{RH}) \end{aligned}$$

<sup>1</sup> Called "correction factor" by GE.

- + A9 \* (Heater Watts at 85%RH)
- + A10 \* (Heater Watts at 95%RH)

Where A1–A10 are from the following table:

A1 = 0.034	A6 = 0.119
A2 = 0.211	A7 = 0.069
A3 = 0.204	A8 = 0.047
A4 = 0.166	A9 = 0.008
A5 = 0.126	A10 = 0.015

Heater Watts at a specific relative humidity = the nominal watts used by all heaters at that specific relative humidity, 72 °F ambient, and DOE reference temperatures of fresh food (FF) average temperature of 45 °F and freezer (FZ) average temperature of 5 °F.  
System-loss Factor = 1.3

(4) Representations. Electrolux may make representations about the energy use of its adaptive control anti-sweat heater refrigerator-freezer products, 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 conditioned upon the presumed validity of statements, representations, and documentary materials provided by the petitioner. This waiver may be revoked or modified at any time upon a determination that the factual basis underlying the Petition for Waiver is incorrect, or DOE determines that the results from the alternate test procedure are unrepresentative of the basic models' true energy consumption characteristics.

Issued in Washington, DC, on December 8, 2009.

Cathy Zoi,  
Assistant Secretary, Energy Efficiency and Renewable Energy.

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## DEPARTMENT OF ENERGY

[Case No. RF–011]

### Energy Conservation Program for Consumer Products: Publication of the Petition for Waiver and Notice of Granting the Application for Interim Waiver of Samsung From the Department of Energy Residential Refrigerator and Refrigerator-Freezer Test Procedures

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

**ACTION:** Notice of petition for waiver, notice of granting application for

interim waiver, and request for public comments.

**SUMMARY:** This notice announces receipt of and publishes the Samsung Electronics America, Inc. (Samsung) petition for waiver (hereafter, “Petition”) from specified portions of the U.S. Department of Energy (DOE) test procedure for determining the energy consumption of electric refrigerators and refrigerator-freezers. The waiver request pertains to Samsung’s French door bottom-mount residential refrigerators and refrigerator-freezers, a product line that utilizes a control logic that changes the wattage of the anti-sweat heaters based upon the ambient relative humidity conditions in order to prevent condensation. The existing test procedure does not take humidity or adaptive control technology into account. Therefore, Samsung has suggested an alternate test procedure that takes adaptive control technology into account when measuring energy consumption. DOE solicits comments, data, and information concerning Samsung’s Petition and the suggested alternate test procedure. DOE also publishes notice of the grant of an interim waiver to Samsung.

**DATES:** DOE will accept comments, data, and information with respect to Samsung’s Petition until, but no later than January 14, 2010.

**ADDRESSES:** You may submit comments, identified by case number [RF–011], by any of the following methods:

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

- *E-mail:*

*AS Waiver Requests@ee.doe.gov*. Include either the case number [RF–011], and/or “Samsung Petition” 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. RF–011, 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.

*Instructions:* All submissions received must include the agency name and case number for this proceeding. Submit electronic comments in WordPerfect, Microsoft Word, Portable Document Format (PDF), or text (American Standard Code for Information Exchange (ASCII)) file format. Avoid the

use of special characters or any form of encryption. Wherever possible, include the electronic signature of the author. DOE does not accept telefacsimiles (faxes).

Pursuant to section 430.27(b)(1)(iv) of Title 10 of the Code of Federal Regulations (10 CFR), Part 430, any person submitting written comments must also send a copy of the comments to the petitioner. The contact information for the petitioner is: Mr. Michael Moss, Samsung Electronics America, Inc., 18600 Broadwick St., Rancho Dominguez, CA 90220, *Phone:* (310) 900–5245, *E-mail:* [mikem@sea.samsung.com](mailto:mikem@sea.samsung.com).

Under 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit two copies: One copy of the document including all the information believed to be confidential, and one copy of the document with the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

*Docket:* For access to the docket to review the documents relevant to this matter, you may visit the U.S. Department of Energy, 950 L’Enfant Plaza, SW., (Resource Room of the Building Technologies Program), Washington, DC 20024, (202) 586–9127, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Please call Ms. Brenda Edwards at (202) 586–2945 for additional information regarding visiting the Resource Room.

**FOR FURTHER INFORMATION CONTACT:** Dr. Michael G. Raymond, U.S. Department of Energy, Building Technologies Program, Mailstop EE–2J, 1000 Independence Avenue, SW., Washington, DC 20585–0121, (202) 586–9611. *E-mail:*

*Michael.Raymond@ee.doe.gov*.

Ms. Francine Pinto or Mr. Eric Stas, U.S. Department of Energy, Office of the General Counsel, Mailstop GC–72, 1000 Independence Avenue, SW., Washington, DC 20585–0103. *Telephone:* (202) 586–7432 or (202) 586–5827, respectively. *E-mail:* [Francine.Pinto@hq.doe.gov](mailto:Francine.Pinto@hq.doe.gov) or [Eric.Stas@hq.doe.gov](mailto:Eric.Stas@hq.doe.gov).

#### SUPPLEMENTARY INFORMATION:

- I. Background and Authority
- II. Petition for Waiver
- III. Application for Interim Waiver
- IV. Alternate Test Procedure
- V. Summary and Request for Comments

#### I. Background and Authority

Title III of the Energy Policy and Conservation Act (“EPCA”) sets forth a