

USA, Daikin AC (Americas), Samsung, Fujitsu General America, Inc. and SANYO. Details of these approvals are provided in Section 3 of this document.

- Through the approval of previous Petitions for Waiver and Applications for Interim Waiver it has been demonstrated that testing standards such as ARI 340–360 and ISO 13256–1 do not adequately define uniform methods to test and rate the performance the VRF multi-split products.
- Failure to approve our Petition for Waiver and Application for Interim Waiver will not only result in significant economic hardship but SANYO will also suffer a serious competitive disadvantage as other manufacturers of similar product continue to be able to market their VRF multi-split products and gain market share while SANYO could not.
- A significant portion of SANYO's overall projected sales revenues are dependent upon the timely introduction of this product line. Our intention is to begin introducing these new ECOi products in February 2010.
- The approval of this waiver and interim waiver is in the best interest of our public and government initiatives to reduce national energy usage.

It is therefore reasonable for one to believe that SANYO's petition will also be granted.

#### SECTION 8—CONFIDENTIAL INFORMATION

SANYO makes no request to DOE related to this Petition for Waiver from Test Procedure or Application for Interim Waiver containing confidential information.

#### SECTION 9—CONCLUSION

It is clear that without the approval of this Petition for Waiver and Application for Interim Waiver that SANYO will lose our ability to effectively compete in the United States VRF market. This is a market in which our company has proven success with HVAC products for more than 25 years and even longer in many other countries throughout the world. SANYO is pleased to have an opportunity to bring this leading edge technology to the United States market, to not only improve the comfort of Americans but also to reduce the amount of energy consumed on building cooling and heating.

SANYO respectfully requests the Department of Energy grant our Application for Interim Waiver and our

Petition for Waiver from Test Procedure to enable the introduction of our second generation advanced ECO-i products to the U.S. market. Granting these requested waivers will permit us to effectively compete in the marketplace.

Due to our near term introduction of our ECO-i product offering we would greatly appreciate a timely response to this Petition for Waiver from Test Procedure and Application for Interim Waiver.

As stated in the introduction of this request SANYO would also request that any future SANYO ECOi products that may be developed also be provided waiver from test procedure until an accepted test procedure is identified by DOE.

Should you or any parties have questions related to this Petition for Waiver from Test Procedure and Application for Interim Waiver, please contact Gary Nettinger at 678–810–0261 or by email at [gnettinger@sna.sanyo.com](mailto:gnettinger@sna.sanyo.com).

Sincerely,

Gary Nettinger

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cc:

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Attn: Arturo Thur De Koos, Engineering & Technical Support

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Attn: John I. Taylor, Vice President,  
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Attn: William Rau, Senior Vice  
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## DEPARTMENT OF ENERGY

### Office of Energy Efficiency and Renewable Energy

[Case No. RF–011]

#### Energy Conservation Program for Consumer Products: Decision and Order Granting a Waiver to Samsung Electronics America, Inc. From the Department of Energy Residential Refrigerator and Refrigerator-Freezer Test Procedure (Case No. RF–011)

**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–011) that grants to Samsung Electronics America, Inc. (Samsung) 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, Samsung 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 March 18, 2010.

**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). Betsy Kohl, U.S. Department of Energy, Office of General Counsel, Mail Stop GC–71, 1000 Independence Avenue, SW., Washington, DC 20585–0103, (202) 586–7796; E-mail: [Elizabeth.Kohl@hq.doe.gov](mailto:Elizabeth.Kohl@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 Samsung 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 Samsung tests and rates such products using the alternate test procedure described in this notice. Today's

decision prohibits Samsung 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 March 10, 2010.

**Cathy Zoi,**

*Assistant Secretary, Energy Efficiency and Renewable Energy.*

### Decision and Order

*In the Matter of:* Samsung Electronics America, Inc. (Case No. RF-011).

#### 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 that 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. The test procedure for residential electric refrigerator-freezers relevant to the current petition for waiver 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 (1) the petitioner's basic model contains one or more design characteristics that prevent testing according to the prescribed test procedure, or (2) when 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(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).

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 September 9, 2009, Samsung 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 Samsung's new refrigerator-freezers that feature humidity sensors and adaptive control anti-sweat heaters. Consequently, Samsung 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 December 15, 2009, DOE granted Samsung an interim waiver and published Samsung's petition for waiver. 74 FR 66340. DOE did not receive any comments on the Samsung petition.

#### Assertions and Determinations

##### Samsung's Petition for Waiver

In its petition, Samsung requested that it be permitted to use the same alternate test procedure 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 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 Samsung petition for waiver. The FTC staff did not have any objections to granting a waiver to Samsung.

#### Conclusion

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

(1) The petition for waiver submitted by Samsung Electronics America, Inc., on September 9, 2009 (Case No. RF-011), is hereby granted as set forth in the paragraphs below.

(2) Samsung shall not be required to test or rate the following Samsung 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:

RB19\*AC\*\*  
RB21\*AC\*\*  
RF19\*AC\*\*  
RF21\*AC\*\*  
RF26\*AF\*\*  
RFG23\*AC\*\*  
RFG29\*AC\*\*  
RFM28\*AA\*\*

(3) Samsung 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 Samsung 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 1 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 result of the second test will be derived from 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:

$$E_{ON} = E + (\text{Correction Factor})$$

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.

$$\text{Correction Factor} = (\text{Anti-sweat Heater Power} \times \text{System-loss Factor}) \times (24 \text{ hrs/1 day}) \times (1 \text{ kW/1,000 W})$$

Where:

$$\begin{aligned} \text{Anti-sweat Heater Power} = & A1 * (\text{Heater Watts at 5\%RH}) \\ & + A2 * (\text{Heater Watts at 15\%RH}) \\ & + A3 * (\text{Heater Watts at 25\%RH}) \\ & + A4 * (\text{Heater Watts at 35\%RH}) \\ & + A5 * (\text{Heater Watts at 45\%RH}) \\ & + A6 * (\text{Heater Watts at 55\%RH}) \\ & + A7 * (\text{Heater Watts at 65\%RH}) \\ & + A8 * (\text{Heater Watts at 75\%RH}) \\ & + A9 * (\text{Heater Watts at 85\%RH}) \\ & + A10 * (\text{Heater Watts at 95\%RH}) \end{aligned}$$

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. Samsung 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 issued on the condition that the statements, representations, and documentary materials provided by the petitioner are valid. DOE may revoke or modify this waiver at any time if it determines the factual basis underlying the petition for waiver is incorrect, or the results from the alternate test procedure are unrepresentative of the basic models' true energy consumption characteristics.

Issued in Washington, DC, on March 10, 2010.

**Cathy Zoi,**

*Assistant Secretary, Energy Efficiency and Renewable Energy.*

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## DEPARTMENT OF ENERGY

### Office of Energy Efficiency and Renewable Energy

[Case No. CD–004]

#### Energy Conservation Program for Consumer Products: Decision and Order Granting a Waiver to the General Electric Company From the Department of Energy Residential Clothes Dryer Test Procedure (Case No. CD–004)

**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. CD–004) that grants to the General Electric Co. (GE) a waiver from the DOE clothes dryer test procedure. The waiver request pertains to GE's specified models of condensing residential clothes dryer. The existing test procedure does not apply to condensing clothes dryers. Under today's decision and order, GE shall be not be required to test and rate its specified models of condensing residential clothes dryer.

**DATES:** This decision and order is effective March 18, 2010.

**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). Betsy Kohl, U.S. Department of Energy, Office of General Counsel, Mail Stop GC–72, 1000 Independence Avenue, SW., Washington, DC 20585–0103, (202) 586–7796; E-mail: [Elizabeth.Kohl@hq.doe.gov](mailto:Elizabeth.Kohl@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 GE a waiver from the applicable residential clothes dryer test procedure at 10 CFR part 430 subpart B, appendix D, for its two models of condensing clothes dryer.

Issued in Washington, DC, on March 10, 2010.

**Cathy Zoi,**

*Assistant Secretary, Energy Efficiency and Renewable Energy.*

### Decision and Order

*In the Matter of:* GE Corporation.  
(Case No. CD–004)

#### 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 that 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. The test procedure for residential clothes dryers relevant to the current petition for waiver is contained in 10 CFR part 430, subpart B, appendix D.

DOE's regulations contain provisions allowing a person to seek a waiver from the test procedure requirements for covered consumer products if at least one of the following conditions is met:

(1) The petitioner's basic model contains one or more design characteristics that prevent testing according to the prescribed test procedure, or (2) when the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption