

distributors, private labelers, or vendors, on which NEMA stated that it agrees that UL is independent in that it is not under the control of any such entities, and that it does not view the fees UL charges for its certification services as presenting a conflict with this requirement. NEMA also pointed out that in its petition UL incorrectly cited to requirements for electric motors in 10 CFR 431.17(a)(b), which are not applicable to small electric motors.<sup>3</sup> (Comment response to the published Notice of Petition, No. 5, pp. 3–4) UL did not respond to these specific comments.

Finally, NEMA made a number of general comments stating its opposition to the granting of UL's petition on the grounds that DOE has not yet sufficiently established definitions and certification requirements applicable to small electric motors. Specifically, NEMA stated that because DOE has not yet established in Subpart X to Part 431 definitions for the terms "certificate of conformity," "certification program," and "certification system" as exist in § 431.12, DOE has not yet provided a basis on which to determine whether a particular certification program should be recognized. NEMA also pointed out that the UL referred to the petition as for "electric motors" rather than for "small electric motors," which could confuse the scope of UL's authority. NEMA recommended that either UL correct this aspect of its petition or that DOE specify that the authority extends only to small electric motors. NEMA further stated that, while it opposes the granting of the petition for these reasons, it supports the recognition of independent entities to assist in testing and certification of small electric motors and opposes any action that may reduce the options for certification. In NEMA's view, UL's petition could be reasonably considered only after the previously stated issues are addressed. (Comment response to the published Notice of Petition, No. 5, pp. 2, 5)

In reviewing NEMA's comments on the UL petition, and UL's responses to these comments, DOE finds no specific cause to reject UL's request for recognition as a nationally recognized certification program for small electric motors. This determination is based primarily on DOE's previous recognition of UL as a nationally recognized certification program for electric motors,

the sampling and testing requirements for which are substantially the same. In regard to NEMA's specific comments regarding the requirement for adherence to UL's safety testing requirements and the proposed sampling requirements for small electric motors, DOE notes that these requirements are in addition to, and not in place of, the requirements for small electric motor testing and certification and do not represent a mandatory requirement from DOE's perspective. As UL correctly noted, manufacturers may choose not to participate in its program, and pursue certification through another process that does not involve its prescribed safety testing or follow-up audit and verification testing. Thus, a certification program may have such requirements in place without conflicting with the basic DOE requirements for certification. DOE also notes that such requirements already exist in UL's nationally recognized certification program for electric motors.

With respect to NEMA's general comment that the granting of UL's petition at this time would be premature due to the absence of certain definitions in subpart X to 10 CFR part 431, while DOE understands that a need may exist for greater clarification of certain aspects of the testing and certification requirements applicable to small electric motors, the absence of these definitions in Subpart X does not in itself preclude DOE from classifying UL's, or any other organization that presents sufficient documentation, pursuant to the requirements in § 431.447, that demonstrates that its program is capable of meeting, at a minimum, the testing and certification requirements in §§ 431.444 and 431.445. To the extent DOE finds that any of the certification requirements for small electric motors are not sufficiently clear, DOE will seek to provide further specificity through a future rulemaking or through guidance, as appropriate. In any case, UL or any other certification program recognized by DOE pursuant to § 431.448 must operate its certification program in conformance with any specific certifications requirements or guidance promulgated by DOE.

DOE also notes that NEMA's comment regarding the scope of UL's petition is correct in that the applicable section for small electric motors is § 431.445 rather than the cited requirements in § 431.17. While DOE declines to reject UL's petition solely on this basis, DOE confirms that the authority granted to UL under this interim determination extends only to testing and certification of small electric motors under subpart X of 10 CFR part 431.

The Department hereby announces its interim determination pursuant to 10 CFR 431.448(d) that UL is classified as a nationally recognized certification program for small electric motors, and will accept comments on this interim determination until October 17, 2013. Any person submitting written comments to DOE with respect to this interim determination must also, at the same time, send a copy of such comments to UL. As provided under § 431.448(c), UL may submit to the Department a written response to any such comments. After receiving any such comments and responses, the Department will issue a final determination on the UL Petition, in accordance with § 431.448(e) of 10 CFR part 431.

Issued in Washington, DC, on September 11, 2013.

**Kathleen B. Hogan,**

*Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.*

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BILLING CODE 6450–01–P

## DEPARTMENT OF ENERGY

### Office of Energy Efficiency and Renewable Energy

[Case No. RF–031]

#### **Decision and Order Granting a Waiver to Panasonic Appliances Refrigeration Systems Corporation of America Corporation (PAPRSA) From the Department of Energy Residential Refrigerator and Refrigerator-Freezer Test Procedures**

**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 its decision and order (Case No. RF–031) granting Panasonic Appliances Refrigeration Systems Corporation of America (PAPRSA) a waiver from the DOE electric refrigerator and refrigerator-freezer test procedures for determining the energy consumption of residential refrigerator-freezers for the basic models set forth in its petition for waiver. Under today's decision and order, PAPRSA shall be required to test and rate its hybrid wine chiller/beverage center basic models using an alternate test procedure that requires PAPRSA to test the wine chiller compartment at 55 °F instead of the prescribed temperature of 38 °F. PAPRSA shall also use the K factor (correction factor) value of 0.85

<sup>3</sup> DOE notes that the CFR section UL cited in its petition addresses the requirements for determining the efficiency of electric motors. § 431.17(a) addresses general requirements applicable to all electric motors, and § 431.17(b) specifies sampling requirements applicable when a certification program is not used.

when calculating the energy consumption.

**DATES:** This Decision and Order is effective September 17, 2013.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Bryan Berringer, U.S. Department of Energy, Building Technologies Office, Mailstop EE-2J, 1000 Independence Avenue SW., Washington, DC 20585-0121. Telephone: (202) 586-0371, Email: [Bryan.Berringer@ee.doe.gov](mailto:Bryan.Berringer@ee.doe.gov).  
Mr. Michael Kido, 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) 586-8145. Email: [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 PAPRSA a waiver from the applicable residential refrigerator and refrigerator-freezer test procedures found in 10 CFR part 430, subpart B, appendix A1 for certain basic models of hybrid wine chiller/beverage center products, provided that PAPRSA tests and rates such products using the alternate test procedure described in this notice. Today's decision prohibits PAPRSA from making representations concerning the energy efficiency of these products unless the product has been tested in a manner consistent with the provisions and restrictions in the alternate test procedure set forth in the decision and order below, and the representations fairly disclose the test results.

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 September 11, 2013.

**Kathleen B. Hogan,**

*Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.*

**Decision and Order**

*In the Matter of:*

Panasonic Appliances Refrigeration Systems Corporation of America  
(Case No. RF-031)

**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 the residential electric refrigerators and refrigerator-freezers that are the focus of this notice.<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 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)) The test procedure for residential electric refrigerators and refrigerator-freezers is set forth in 10 CFR part 430, subpart B, appendix A1.

DOE's regulations for covered products contain provisions allowing a person to seek a waiver from the test procedure requirements for a particular basic model for covered consumer products when (1) the petitioner's basic model for which the petition for waiver was submitted 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.

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).

Any interested person who has submitted a petition for waiver may also 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).

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

**II. PAPRSA's Petition for Waiver: Assertions and Determinations**

On April 29, 2013, PAPRSA submitted a petition for waiver and application for interim waiver (petition) from the test procedure applicable to residential electric refrigerators and refrigerator-freezers set forth in 10 CFR Part 430, subpart B, appendix A1. In its petition, PAPRSA seeks a waiver from the existing DOE test procedure applicable to refrigerators and refrigerator-freezers under 10 CFR Part 430 for PAPRSA's hybrid models that consist of single-cabinet units with a refrigerated beverage compartment in the top portion and a wine storage compartment in the bottom of the units. DOE issued guidance that clarified the test procedures to be used for hybrid products such as the PAPRSA models at issue here: [http://www1.eere.energy.gov/buildings/appliance\\_standards/residential/pdfs/refrigerator\\_definition\\_faq.pdf](http://www1.eere.energy.gov/buildings/appliance_standards/residential/pdfs/refrigerator_definition_faq.pdf). This guidance specifies that basic models such as the ones PAPRSA identifies in its petition, which do not have a separate wine storage compartment with a separate exterior door, are to be tested according to the DOE test procedure in Appendix A1, with the temperatures specified therein. PAPRSA asserts that the wine storage compartment cannot be tested at the prescribed temperature of 38 °F, because the minimum compartment temperature is 45 °F. PAPRSA submitted an alternate test procedure to account for the energy consumption of its wine chiller/beverage centers. That alternate procedure would test the wine chiller compartment at 55 °F, instead of the prescribed 38 °F. To justify the use of this standardized temperature for testing, PAPRSA stated in its petition that it designed these models to provide an average temperature of 55 to 57 °F, which it determined is a commonly recommended temperature for wine storage, suggesting that this temperature is presumed to be representative of expected consumer use. 77 FR 19656. DOE notes that the test procedures for wine chillers adopted by the Association of Home Appliance Manufacturers (AHAM), California Energy Commission (CEC), and Natural Resources Canada all use a standardized compartment temperature of 55 °F for wine chiller compartments, which is consistent with PAPRSA's approach.

**III. Conclusion**

After careful consideration of all the material submitted by PAPRSA, it is ordered that:

(1) The petition for waiver submitted by the Panasonic Appliances

Refrigeration Systems Corporation of America (Case No. RF-031) is hereby granted as set forth in the paragraphs below.

(2) PAPRSA shall be required to test and rate the following PAPRSA models according to the alternate test procedure set forth in paragraph (3) below.

SR5180JBC  
JUB24FLARS0\*  
JUB24FRARS0\*  
JUB24FRACX0\*

(3) PAPRSA 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 PAPRSA products listed in paragraph (2) only, test the wine chiller compartment at 55 °F, instead of the prescribed 38 °F.

PAPRSA shall also use the K factor (correction factor) value of 0.85 when calculating the energy consumption of one of the models listed above. Therefore, the energy consumption is defined by the higher of the two values calculated by the following two formulas (according to 10 CFR part 430, subpart B, Appendix A1):

Energy consumption of the wine compartment:

$$EWine = ET1 + [(ET2 - ET1) \times (55 \text{ °F} - TW1) / (TW2 - TW1)] \times 0.85$$

Energy consumption of the refrigerated beverage compartment:

$$EBeverage \text{ Compartment} = ET1 + [(ET2 - ET1) \times (38 \text{ °F} - TBC1) / (TBC2 - TBC1)].$$

(4) Representations. PAPRSA may make representations about the energy use of its hybrid wine chiller/beverage center 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.

(7) This waiver applies only to those basic models set out in PAPRSA's April 29, 2013 petition for waiver. Grant of

this waiver does not release a petitioner from the certification requirements set forth at 10 CFR part 429.

Issued in Washington, DC, on September 11, 2013.

Kathleen B. Hogan,  
*Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.*

[FR Doc. 2013-22582 Filed 9-16-13; 8:45 am]

BILLING CODE 6450-01-P

## DEPARTMENT OF ENERGY

### Office of Energy Efficiency and Renewable Energy

[Case No. RF-032]

#### Notice of Petition for Waiver of Samsung Electronics America, Inc. From the Department of Energy Residential Refrigerator and Refrigerator-Freezer 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 a petition for waiver from Samsung Electronics America, Inc. (Samsung) regarding specified portions of the U.S. Department of Energy (DOE) test procedure for determining the energy consumption of electric refrigerators and refrigerator-freezers. In its petition, Samsung provides an alternate test procedure that is the same as the test procedure DOE published in a final rule setting out testing requirements for manufacturers to follow starting in 2014. DOE solicits comments, data, and information concerning Samsung's petition and the suggested alternate test procedure. Today's notice also grants Samsung an interim waiver from the electric refrigerator and refrigerator-freezer test procedure, subject to use of the alternative test procedure set forth in this notice.

**DATES:** DOE will accept comments, data, and information with respect to the Samsung Petition until October 17, 2013.

**ADDRESSES:** You may submit comments, identified by case number "RF-032," 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 the case number (Case No. RF-032) in the subject line of the message.

- **Mail:** Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Office, Mailstop EE-2J/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 Office, 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 refrigerator-freezer 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 Office, 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).

Mr. Michael Kido, 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) 586-8145. Email: [Michael.Kido@hq.doe.gov](mailto:Michael.Kido@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 the electric refrigerators and refrigerator-freezers that are the focus of this notice.<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

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