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DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

[Case No. CW–014]

Energy Conservation Program for Consumer Products: Decision and Order Granting a Waiver to Samsung Electronics America, Inc. From the Department of Energy Residential Clothes Washer Test Procedure

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. CW–014) that grants to Samsung Electronics America, Inc. (Samsung) a waiver from the DOE clothes washer test procedure for determining the energy consumption of clothes washers. Under today's decision and order, Samsung shall be required to test and rate its clothes washers with larger clothes containers using an alternate test procedure that takes this technology into account when measuring energy consumption.

DATES: This Decision and Order is effective March 10, 2011.

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: mail to: Michael.Raymond@ee.doe.gov.*

Elizabeth Kohl, U.S. Department of Energy, Office of the General Counsel, Mail Stop GC–71, 1000 Independence Avenue, SW., Washington, DC 20585–0103. *Telephone:* (202) 586–7796, *E-mail: mail to: 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 clothes washer test procedure in 10 CFR part 430, subpart B, appendix J1 for certain basic models of clothes washers with capacities greater than 3.8 cubic feet, 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 the product has been tested 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 March 3, 2011.

Cathy Zoi,

Assistant Secretary, Energy Efficiency and Renewable Energy.

Decision and Order

In the Matter of: Samsung Electronics America, Inc. (Case No. CW–014)

I. Background and Authority

Title III of the Energy Policy and Conservation Act (EPCA) sets forth a variety of provisions concerning energy efficiency. Part B of Title III provides for the "Energy Conservation Program for Consumer Products Other Than Automobiles." 42 U.S.C. 6291–6309.[1] 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 clothes washers, the subject of today's notice, is contained in 10 CFR part 430, subpart B, appendix J1.

DOE's regulations for covered products contain provisions allowing a person to seek a waiver for a particular basic model from the test procedure requirements 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. 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).

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).

II. Samsung's Petition for Waiver: Assertions and Determinations

On July 20, 2010, Samsung filed a petition for waiver from the test procedure applicable to automatic and semi-automatic clothes washers set forth in 10 CFR part 430, subpart B, appendix J1. In particular, Samsung requested a waiver to test its clothes washers on the basis of the residential test procedures contained in 10 CFR part 430, Subpart B, Appendix J1, with a revised Table 5.1 extended to larger container volumes. Samsung's petition was published in the **Federal Register** on September 23, 2010. 75 FR 57937. DOE received no comments on the Samsung petition.

Samsung's petition seeks a waiver from the DOE test procedure because the mass of the test load used in the DOE test procedure is based on the basket volume of the test specimen, which is currently not defined for the basket sizes of the basic models cited in its waiver application. In the DOE test procedure, the relation between basket volume and test load mass is defined for basket volumes between 0 and 3.8 cubic feet. Samsung has designed a series of clothes washers that contain basket volumes greater than 3.8 cubic feet.

DOE has granted petitions for waiver and requests for interim waiver to other manufacturers for clothes washer basic models with capacities greater than 3.8 cubic feet. In addition to the interim waiver granted to Samsung (75 FR 57937, Sept. 23, 2010), DOE has granted interim waivers to Whirlpool Corporation (71 FR 48913, Aug. 22,

[1] Upon codification in the U.S. Code, Part B was re-designated Part A for editorial reasons.

2006), LG Electronics, Inc. (LG) (75 FR 71680, Nov. 24, 2010), the General Electric Company (GE) (75 FR 57915, Sept. 16, 2010), and Electrolux (75 FR 81258, December 27, 2010). DOE also granted the petitions for waiver submitted by Whirlpool (75 FR 69653, Nov. 15, 2010) and GE (75 FR 76968, Dec. 10, 2010).

Table 5.1 of Appendix J1 defines the test load sizes used in the test procedure as linear functions of the basket volume. Samsung has submitted a proposed revised table to extend the maximum basket volume from 3.8 cubic feet to 6.0 cubic feet, a table similar to one developed by the Association of Home Appliance Manufacturers (AHAM) and provided to DOE in comments on a proposed DOE residential clothes washer test procedure rulemaking. AHAM provided calculations to extrapolate Table 5.1 of the DOE test procedure to larger container volumes. DOE believes that this is a reasonable procedure because the DOE test procedure defines test load sizes as linear functions of the basket volume. AHAM's extrapolation was performed on the load weight in pounds, and AHAM appears to have used the conversion ratio of 1/2.2 (or 0.45454545) to convert pounds to kilograms. Samsung used the more accurate conversion value of 0.45359237 (which Whirlpool also used in its similar petition), rounding the results in kilograms to two decimal places.

A similar Table 5.1 was also set forth in the notice of proposed rulemaking (NOPR) to amend the DOE test procedure, published September 21, 2010 (75 FR 57556). The Table 5.1 in the clothes washer NOPR has some small differences with the Table 5.1 used by Samsung and Whirlpool. The differences are due to rounding, and the largest difference is less than 0.5%. The Table 5.1 values in the alternative test procedure set forth in this waiver are from DOE's NOPR. 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.

III. 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.

IV. Conclusion

After careful consideration of all the material that was submitted by Samsung, the waivers and interim waivers granted to Whirlpool, GE, LG, Electrolux and Samsung, DOE's proposed rule to amend the clothes washer test procedure, and consultation with FTC staff, it is ordered that:

(1) The petition for waiver submitted by Samsung Electronics America, Inc. (Case No. CW–014) 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 procedure contained in 10 CFR part 430, subpart B, appendix J1. Instead, it shall be required to test and rate such products according to the alternate test procedure as set forth in paragraph (3) below:

WA51A****; WA52A****; WA53A****; WA54A****; WA55A****; WA56A****; WF221***; WF231***; WF241***; WF251***; WF330***; WF331***; WF340***; WF350***; WF409***; WF410***; WF419***; WF421***; WF428***; WF431***; WF438***; WF441***; WF448***; WF451***; WF461***; WF471***; WF500***; WF510***; WF511***; WF512***; WF520***.

(3) Samsung shall be required to test the products listed in paragraph (2) above according to the test procedures for clothes washers prescribed by DOE at 10 CFR part 430, appendix J1, except that, for the Samsung products listed in paragraph (2) only, the expanded Table 5.1 below shall be substituted for Table 5.1 of appendix J1.

TABLE 5.1—TEST LOAD SIZES

Container volume		Minimum load		Maximum load		Average load	
cu. ft. ≥ <	liter ≥ <	Lb	kg	Lb	kg	lb	kg
0–0.8	0–22.7	3.00	1.36	3.00	1.36	3.00	1.36
0.80–0.90	22.7–25.5	3.00	1.36	3.50	1.59	3.25	1.47
0.90–1.00	25.5–28.3	3.00	1.36	3.90	1.77	3.45	1.56
1.00–1.10	28.3–31.1	3.00	1.36	4.30	1.95	3.65	1.66
1.10–1.20	31.1–34.0	3.00	1.36	4.70	2.13	3.85	1.75
1.20–1.30	34.0–36.8	3.00	1.36	5.10	2.31	4.05	1.84
1.30–1.40	36.8–39.6	3.00	1.36	5.50	2.49	4.25	1.93
1.40–1.50	39.6–42.5	3.00	1.36	5.90	2.68	4.45	2.02
1.50–1.60	42.5–45.3	3.00	1.36	6.40	2.90	4.70	2.13
1.60–1.70	45.3–48.1	3.00	1.36	6.80	3.08	4.90	2.22
1.70–1.80	48.1–51.0	3.00	1.36	7.20	3.27	5.10	2.31
1.80–1.90	51.0–53.8	3.00	1.36	7.60	3.45	5.30	2.40
1.90–2.00	53.8–56.6	3.00	1.36	8.00	3.63	5.50	2.49
2.00–2.10	56.6–59.5	3.00	1.36	8.40	3.81	5.70	2.59
2.10–2.20	59.5–62.3	3.00	1.36	8.80	3.99	5.90	2.68
2.20–2.30	62.3–65.1	3.00	1.36	9.20	4.17	6.10	2.77
2.30–2.40	65.1–68.0	3.00	1.36	9.60	4.35	6.30	2.86
2.40–2.50	68.0–70.8	3.00	1.36	10.00	4.54	6.50	2.95
2.50–2.60	70.8–73.6	3.00	1.36	10.50	4.76	6.75	3.06
2.60–2.70	73.6–76.5	3.00	1.36	10.90	4.94	6.95	3.15
2.70–2.80	76.5–79.3	3.00	1.36	11.30	5.13	7.15	3.24
2.80–2.90	79.3–82.1	3.00	1.36	11.70	5.31	7.35	3.33
2.90–3.00	82.1–85.0	3.00	1.36	12.10	5.49	7.55	3.42
3.00–3.10	85.0–87.8	3.00	1.36	12.50	5.67	7.75	3.52
3.10–3.20	87.8–90.6	3.00	1.36	12.90	5.85	7.95	3.61
3.20–3.30	90.6–93.4	3.00	1.36	13.30	6.03	8.15	3.70
3.30–3.40	93.4–96.3	3.00	1.36	13.70	6.21	8.35	3.79
3.40–3.50	96.3–99.1	3.00	1.36	14.10	6.40	8.55	3.88
3.50–3.60	99.1–101.9	3.00	1.36	14.60	6.62	8.80	3.99

TABLE 5.1—TEST LOAD SIZES—Continued

Container volume		Minimum load		Maximum load		Average load	
cu. ft. ≥ <	liter ≥ <	Lb	kg	Lb	kg	lb	kg
3.60–3.70	101.9–104.8	3.00	1.36	15.00	6.80	9.00	4.08
3.70–3.80	104.8–107.6	3.00	1.36	15.40	6.99	9.20	4.17
3.80–3.90	107.6–110.4	3.00	1.36	15.80	7.16	9.40	4.26
3.90–4.00	110.4–113.3	3.00	1.36	16.20	7.34	9.60	4.35
4.00–4.10	113.3–116.1	3.00	1.36	16.60	7.53	9.80	4.45
4.10–4.20	116.1–118.9	3.00	1.36	17.00	7.72	10.00	4.54
4.20–4.30	118.9–121.8	3.00	1.36	17.40	7.90	10.20	4.63
4.30–4.40	121.8–124.6	3.00	1.36	17.80	8.09	10.40	4.72
4.40–4.50	124.6–127.4	3.00	1.36	18.20	8.27	10.60	4.82
4.50–4.60	127.4–130.3	3.00	1.36	18.70	8.46	10.80	4.91
4.60–4.70	130.3–133.1	3.00	1.36	19.10	8.65	11.00	5.00
4.70–4.80	133.1–135.9	3.00	1.36	19.50	8.83	11.20	5.10
4.80–4.90	135.9–138.8	3.00	1.36	19.90	9.02	11.40	5.19
4.90–5.00	138.8–141.6	3.00	1.36	20.30	9.20	11.60	5.28
5.00–5.10	141.6–144.4	3.00	1.36	20.70	9.39	11.90	5.38
5.10–5.20	144.4–147.2	3.00	1.36	21.10	9.58	12.10	5.47
5.20–5.30	147.2–150.1	3.00	1.36	21.50	9.76	12.30	5.56
5.30–5.40	150.1–152.9	3.00	1.36	21.90	9.95	12.50	5.65
5.40–5.50	152.9–155.7	3.00	1.36	22.30	10.13	12.70	5.75
5.50–5.60	155.7–158.6	3.00	1.36	22.80	10.32	12.90	5.84
5.60–5.70	158.6–161.4	3.00	1.36	23.20	10.51	13.10	5.93
5.70–5.80	161.4–164.2	3.00	1.36	23.60	10.69	13.30	6.03
5.80–5.90	164.2–167.1	3.00	1.36	24.00	10.88	13.50	6.12
5.90–6.00	167.1–169.9	3.00	1.36	24.40	11.06	13.70	6.21

Notes: (1) All test load weights are bone dry weights.
(2) Allowable tolerance on the test load weights are ±0.10 lbs (0.05 kg).

(4) Representations. Samsung may make representations about the energy use of its clothes washer 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 decision and order applies only to those models specifically set out in the petition, not future models that may be manufactured by Samsung. Samsung may submit a new or amended petition for waiver and request for grant of interim waiver, as appropriate, for additional models of clothes washers for which it seeks a waiver from the DOE test procedure. Grant of this waiver does not release Samsung from the certification requirements set forth at 10 CFR 430.62.

(6) This waiver shall remain in effect consistent with the provisions of 10 CFR430.27(m).

(7) 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 3, 2011.

Cathy Zoi,

Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. 2011–5506 Filed 3–9–11; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP11–107–000]

Leaf River Energy Center LLC; Notice of Application

On February 25, 2011, Leaf River Energy Center LLC (Leaf River), 53 Riverside Avenue, Westport, Connecticut 06880, filed with the Federal Energy Regulatory Commission (Commission) an application under section 7(c) of the Natural Gas Act (NGA), as amended, and part 157 of the Commission's regulations for an order amending the certificate of public convenience and necessity issued in Docket No. CP08–8–000 to authorize Leaf River to relocate and construct two of its certificated and not yet constructed storage caverns and to construct associated cavern piping corridors, access roads and related facilities, all as more fully detailed in the Application. Leaf River also seeks reaffirmation of its previously granted authorization to charge market-based rates for its storage and hub services, as well as various waivers granted in the order issuing certificate. Leaf River states that this amendment does not involve any change in capacity, pressures, injection rates or withdrawal rates authorized by the Commission in the original certificate order.

Questions regarding the application may be directed to James F. Bowe, Jr., Dewey & LeBoeuf LLP, 1101 New York Avenue, NW., Washington, DC 20005–4213, 202–346–7999 (phone), 202–346–8102 (fax), or *jbowe@dl.com*.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify Federal and