SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: January 25, 2010.

James Hyler,

Acting Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management.

Federal Student Aid

Type of Review: Revision.

Title: Application To Participate in the Leveraging Educational Assistance and Partnership (LEAP), Special-LEAP, and Grants for Access and Persistence (GAP) Programs.

Frequency: Annually.

Affected Public: Businesses or other for-profit; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden

Responses: 56.

Burden Hours: 448.

Abstract: The officially designated educational agency in each of the 50 States, the District of Columbia, Puerto Rico, and four island jurisdictions use this form to apply annually to participate in the Leveraging Educational Assistance and Partnership (LEAP), Special Leveraging Educational Assistance and Partnership (SLEAP), and Grants for Access and Persistence (GAP) Programs. On this application the States provide information the Department requires to obligate funds and for program management.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* by selecting the "Browse Pending Collections" link and by clicking on link number 4210. When you access the information collection, click on "Download Attachments" to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–401–0920. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 2010–1747 Filed 1–27–10; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

[Case No. RF–012]

Energy Conservation Program for Consumer Products: Publication of the Petition for Waiver and Notice of Granting the Application for Interim Waiver of Electrolux 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 Electrolux Home Products, Inc. (Electrolux) 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 Electrolux's product lines that utilize a control logic that changes the wattage of the anti-sweat heaters based upon the ambient relative humidity conditions to prevent condensation. The existing test procedure does not take humidity or adaptive control technology into account. Therefore, Electrolux has suggested an alternate test procedure that takes adaptive control technology into account when measuring energy consumption. DOE solicits comments, data, and information concerning Electrolux's Petition and the suggested alternate test procedure. DOE also publishes notice of the grant of an interim waiver to Electrolux.

DATES: DOE will accept comments, data, and information with respect to the Electrolux Petition until, but no later than March 1, 2010.

ADDRESSES: You may submit comments, identified by case number "RF–012," 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 [Case No. RF–012], and/or "Electrolux Petition" in the subject line of the message.
- *Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, 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 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., (Resource Room of the Building Technologies Program), Washington, DC, 20024; (202) 586–2945, between 9 a.m. and 4 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 rulemakings regarding similar refrigerators and refrigerator-freezers. Please call Ms. Brenda Edwards at the above telephone number for additional information regarding visiting the Resource Room.

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

Ms. Francine Pinto or 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. E-mail: *Francine.Pinto@hq.doe.gov* or *Michael.Kido@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

I. Background and Authority

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)) The test procedure for residential refrigerators and refrigerator-freezers is contained in Title 10 of the Code of Federal Regulations (10 CFR) Part 430, subpart B, appendix A1.

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. 10 CFR 430.27(b)(1)(iii). 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); 430.27(g)) An interim waiver remains in effect for a period of 180 days or until DOE issues its determination on the petition for waiver, whichever is sooner, and may be extended for an additionally 180 days, if necessary. (10 CFR 430.27(h))

II. Petition for Waiver of Test Procedure

On December 4, 2009, 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 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 General Electric Company (GE) and Whirlpool Corporation (Whirlpool) for refrigerator-freezers which were the subject of petitions for waiver published April 17, 2007 (72 FR 19189) and July 10, 2008, respectively (73 FR 39684). GE's waiver was granted on February 27, 2008 (73 FR 10425). Whirlpool's waiver was granted on May 5, 2009 (74 FR 20695). On November 6, 2008, Electrolux filed a Petition for Waiver, similar to the current Electrolux Petition, from the test procedures applicable to additional basic models of residential refrigerators and refrigerator-freezers. Electrolux's November 2008 Petition was published in the **Federal Register** on June 4, 2009. 74 FR 26853. In that notice, DOE announced its grant of an interim waiver to Electrolux, and expanded that waiver to include four additional models after receiving supplemental information from the company. DOE granted Electrolux's November 2008 petition for waiver on December 15, 2009. 74 FR 66338.

In its December 2009 petition, as in its November 2008 petition, Electrolux seeks a waiver from the existing DOE test procedure applicable to refrigerators and refrigerator-freezers under 10 CFR part 430 because the existing test procedure takes neither ambient humidity nor adaptive technology into account. Therefore, Electrolux states that the test procedure does not accurately measure the energy consumption of Electrolux's new refrigerators and refrigerator-freezers that feature variable anti-sweat heater controls and adaptive heaters. Consequently, Electrolux has submitted to DOE for approval an alternate test procedure that would allow it to correctly calculate the energy consumption of this new product line. Electrolux's alternate test procedure is the same in all relevant particulars as that prescribed for GE, Whirlpool and Electrolux itself for refrigerators and refrigerator-freezers that are equipped with the same type of technology. The alternate test procedure applicable to these products simulates the energy used by the adaptive heaters in a typical consumer household, as explained in the Decision and Order that DOE published in the **Federal Register** on February 27, 2008. 73 FR 10425. DOE believes that it is in the public interest to have similar products tested and rated for energy consumption on a comparable basis.

III. Application for Interim Waiver

Electrolux also requests an interim waiver from the existing DOE test procedure. Under 10 CFR 430.27(b)(2), each Application for Interim Waiver "shall demonstrate likely success of the Petition for Waiver and shall address what economic hardship and/or competitive disadvantage is likely to result absent a favorable determination on the Application for Interim Waiver." An interim waiver may 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))

DOE determined that Electrolux's application for interim waiver does not provide sufficient market, equipment price, shipments, and other manufacturer impact information to permit DOE to evaluate the economic

hardship Electrolux might experience absent a favorable determination on its application for interim waiver. DOE understands, however, that absent an Interim Waiver, Electrolux's products would not otherwise be tested and rated for energy consumption on a comparable basis with equivalent GE and Whirlpool products where DOE previously granted waivers, and would be required to represent a higher energy consumption for essentially the same product. Furthermore, it appears likely that Electrolux's Petition for Waiver will be granted, and it is desirable for public policy reasons to grant Electrolux immediate relief pending a determination on the petition for waiver. As stated above, DOE has already granted similar waivers to GE, Whirlpool and Electrolux because the test procedure does not accurately represent the energy consumption of refrigerator-freezers containing relative humidity sensors and adaptive control anti-sweat heaters. The rationale for granting these waivers is equally applicable to Electrolux, which has products containing similar relative humidity sensors and anti-sweat heaters. DOE has also concluded that it is in the public interest to have similar products tested and rated for energy consumption on a comparable basis.

For the reasons stated above, DOE grants Electrolux's application for interim waiver from testing of its refrigerator-freezer product line containing relative humidity sensors and adaptive control anti-sweat heaters. Therefore, *it is ordered that:*

The Application for interim waiver filed by Electrolux is hereby granted for Electrolux's refrigerator-freezer product line containing relative humidity sensors and adaptive control anti-sweat heaters, subject to the specifications and conditions below.

1. Electrolux shall not be required to test or rate its refrigerator-freezer product line containing relative humidity sensors and adaptive control anti-sweat heaters on the basis of the test procedure under 10 CFR part 430 subpart B, appendix A1.

2. Electrolux shall be required to test and rate its refrigerator-freezer product line containing relative humidity sensors and adaptive control anti-sweat heaters according to the alternate test procedure as set forth in section IV, "Alternate test procedure."

The interim waiver applies to the following basic model groups:

CRS23***	FFCU23****	FGHS26****	FGUN23****	FGHB28****
CRS26***	FGHC23****	FGUS26****	FPHN23****	FGUB28****
FFHS23****	FGCU23****	FPHS26****	FPUN23****	FPHB28****
FFUS23****	FPHC23****	FPUS26****	EI23BC****	FPUB28****
FGHS23****	FPCU23****	EI26SS****	EW23BC****	FGHN28****
FGUS23****	FFSC23****	EW26SS****	E23BC*****	FGUN28****
FPHS23****	EI23CS****	FGHF23****	FFHB26****	FPHN28****
FPUS23****	EW23CS****	FGUB23****	FFUB26****	FPUN28****
EI23SS****	E23CS****	FPHF23****	FFHN26****	EI28BS****
EW23SS****	FFHS26****	FPUB23****	FFUN26****	EW28BS****
FFHC23****	FFUS26****	FGHN23****	EI26BS****	

This interim waiver is conditioned upon the presumed validity of statements, representations, and documents provided by the petitioner. DOE may revoke or modify this interim waiver at any time upon a determination that the factual basis underlying the petition for waiver is incorrect, or upon a determination that the results from the alternate test procedure are unrepresentative of the basic models' true energy consumption characteristics.

IV. Alternate Test Procedure

Electrolux's new line of refrigerators and refrigerator-freezers contains sensors that detect ambient humidity and interact with controls that vary the effective wattage of anti-sweat heaters to evaporate excess moisture. The existing DOE test procedure cannot be used to calculate the energy consumption of these features. The variable anti-sweat heater contribution to the refrigerator's energy consumption is entirely dependent on the ambient humidity of the test chamber, which the DOE test procedure does not specify. The energy consumption of the anti-sweat heaters will be modeled and added to the energy consumption measured with the anti-sweat heaters disabled. The anti-sweat contribution to the product's total energy consumption will be calculated by the same methodology that was set forth in the GE Petition. The objective of this approach is to simulate the average energy used by the adaptive anti-sweat heaters as activated in refrigerators and refrigerator-freezers of typical consumer households across the United States.

To determine the conditions in a typical consumer household, GE compiled historical data on the monthly average outdoor temperatures and humidities for the top 50 metropolitan areas of the U.S. over approximately the last 30 years. In light of the similarity of technologies at issue, Electrolux is using the same data compiled by GE for its determination of the anti-sweat heater energy use. Like GE and Whirlpool, Electrolux includes in its test procedure a "system-loss factor" to calculate system losses attributed to operating anti-sweat heaters, controls, and related components.

For the duration of the interim waiver, Electrolux shall be required to test the products listed 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 above 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 + (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.

Correction Factor = (Anti-sweat Heater Power × System − loss Factor) × (24 hrs/1 day) × (1 kW/1000 W)

Where:

Anti-sweat Heater Power = A1 * (Heater Watts at 5%RH)
+ A2 * (Heater Watts at 15%RH)
+ A3 * (Heater Watts at 25%RH)
+ A4 * (Heater Watts at 35%RH)
+ A5 * (Heater Watts at 45%RH)
+ A6 * (Heater Watts at 55%RH)
+ A7 * (Heater Watts at 65%RH)
+ A8 * (Heater Watts at 75%RH)
+ 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

V. Summary and Request for Comments

Through today's notice, DOE grants Electrolux an interim waiver from the specified portions of the test procedure applicable to Electrolux's new line of refrigerators and refrigerator-freezers with variable anti-sweat heater controls and adaptive heaters and announces receipt of Electrolux's petition for waiver from those same portions of the test procedure. DOE publishes Electrolux's petition for waiver in its entirety pursuant to 10 CFR 430.27(b)(1)(iv). The petition contains no confidential information. The petition includes a suggested alternate test procedure and calculation methodology to determine the energy consumption of Electrolux's specified refrigerators and refrigerator-freezers with adaptive anti-sweat heaters. Electrolux is required to follow this alternate procedure as a condition of its interim waiver, and DOE is considering including this alternate procedure in its subsequent Decision and Order.

DOE solicits comments from interested parties on all aspects of the petition, including the suggested alternate test procedure and calculation methodology. Pursuant to 10 CFR 430.27(b)(1)(iv), any person submitting written comments to DOE must also send a copy of such comments to the petitioner. The contact information for the petitioner is: Ms. Sheila A. Millar, Keller and Heckman, LLP, 1001 G Street, NW., Washington, DC 20001. Telephone: (202) 434–4100. E-mail: *millar@khlaw.com.* 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 Interchange (ASCII)) file format and 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).

According to 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 to DOE: 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.

Issued in Washington, DC, on January 22, 2010.

Cathy Zoi,

Assistant Secretary, Energy Efficiency and Renewable Energy.

December 4, 2009
Via Overnight Delivery

The Honorable Catherine Zoi, Assistant Secretary
Office of Energy Efficiency and Renewable Energy
U.S. Department of Energy
Mail Station EE–10
Forrestal Building
1000 Independence Avenue, SW
Washington, DC 20585–0121

Writer's Direct Access
Sheila A. Millar
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Re: Petition for Waiver and Application for Interim Waiver from the Department of Energy Residential Refrigerator and Refrigerator-Freezer Test Procedures by Electrolux Home Products, Inc.

Dear Secretary Zoi:

On behalf of our client, Electrolux Home Products, Inc. ("Electrolux"), we respectfully submit this Petition for Waiver and Application for Interim Waiver requesting exemption by the Department of Energy from certain parts of the test procedure for determining residential refrigerator and refrigerator-freezer energy consumption under 10 CFR § 430.27. The requested waiver will allow Electrolux to test its refrigerator-freezer to the amended procedure set out by this petition.

This petition for waiver contains no confidential business information and may be released pursuant to Freedom of Information Act requests.

I. Petition for Waiver

Electrolux seeks the Department's approval of this proposed amendment to the refrigerator test procedure to be assured of properly calculating the energy consumption and properly labeling its new refrigerator. On February 27, 2008 and May 5, 2009, the Department granted Petitions for Waiver filed respectively by General Electric Corporation ("GE") and Whirlpool Corporation ("Whirlpool") to establish a new methodology to calculate the energy consumption of a refrigerator-freezer when such a product contains adaptive anti-sweat heaters.[1]

Electrolux has developed its own adaptive anti-sweat system that uses a humidity sensor to operate the anti-sweat heaters. On November 6, 2008, Electrolux filed a Petition for Waiver and Application for Interim Waiver from the test procedure applicable to residential electric refrigerators and refrigerator-freezers. Having determined that Electrolux is seeking a waiver similar to the one granted to GE, and that the Electrolux Petition is likely to be granted, the Department on March 3, 2009, granted Electrolux an Interim Waiver, which was expanded on June 4, 2009, to cover four additional models.[2] On July 13, 2009, Electrolux filed a second Petition for Waiver and Application for Interim Waiver for residential electric refrigerators and

[1] *Decision and Order Granting a Waiver to the General Electric Company From the Department of Energy Residential Refrigerator and Refrigerator-Freezer Test Procedure (Case No. RF–007),* 73 Fed. Reg. 10,425; *Energy Conservation Program for Consumer Products: Decision and Order Granting a Waiver to Whirlpool Corporation From the Department of Energy Residential Refrigerator and Refrigerator-Freezer Test Procedure,* 74 Fed. Reg. 20,695.

[2] *See Publication of the Petition for Waiver and Notice of Granting the Application for Interim Waiver of Electrolux From the Department of Energy Residential Refrigerator and Refrigerator-Freezer Test Procedures,* 74 Fed. Reg. 26,853 (June 4, 2009).

refrigerator freezers with the Department that is still pending.

Department regulations make clear that once a waiver has been granted, the Department must take steps to incorporate the new procedure and eliminate the need for continuing waivers:

Within one year of the granting of any waiver, the Department of Energy will publish in the Federal Register a notice of proposed rulemaking to amend its regulations so as to eliminate any need for the continuation of such waiver. As soon thereafter as practicable, the Department of Energy will publish in the Federal Register a final rule. Such waiver will terminate on the effective date of such final rule.[3]

In the interim, however, Electrolux is developing and planning to shortly introduce into the marketplace new models that use adaptive anti-sweat technology. Accordingly, Electrolux is filing this Petition for Waiver and Application for Interim Waiver to address these new models.

The Department's regulations provide that the Assistant Secretary will grant a petition for waiver upon "determination that the basic model for which the waiver was requested contains a design characteristic which either prevents testing of the basic model according to the prescribed test procedures, or 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."[4]

Electrolux respectfully submits that sufficient grounds exist for the Assistant Secretary to grant this Petition on both points. First, the refrigerator energy test procedure does not allow the energy used by Electrolux's new refrigerator to be accurately calculated. The new refrigerator contains adaptive anti-sweat heaters (*i.e.*, anti-sweat heaters that respond to humidity conditions found in consumers' homes). Since the test conditions specified by the test procedure neither define required humidity conditions nor otherwise take ambient humidity conditions into account in calculating energy consumption, the adaptive feature of Electrolux's new refrigerator models cannot be properly tested.

Second, testing Electrolux's new refrigerator models according to the existing test procedure would provide results that do not accurately measure the energy used by the new refrigerator.

A. The Refrigerator Energy Test Procedure

The test procedure for calculating energy consumption specifies that the test chamber must be maintained at 90° Fahrenheit ("F").[5] This ambient temperature is not typical of conditions in most consumers' homes. Rather, it is intended to simulate the heat load of a refrigerator in a 70 °F ambient with typical usage by the consumer. But the test procedure does not specify test chamber humidity conditions. Sweat occurs on refrigerators when specific areas on the unit are below the local dew point. Higher relative humidity levels result in an increase of the dew point. Sweat has been addressed by installing anti-sweat heaters on mullions and other locations where sweat accumulates. Previous anti-sweat heaters operated at a fixed amount of power, and turned on or off regardless of the humidity or amount of sweat on the unit.

B. Electrolux's Proposed Modifications

The circumstances of this petition are similar to those in the Department's earlier decisions granting waiver petitions, including the 2001 waiver granted in In the Matter of Electrolux Home Appliances.[6] The test procedure at issue in Electrolux's 2001 waiver request was originally developed when simple mechanical defrost timers were the norm. Accordingly, Electrolux sought a test procedure waiver to accommodate its advanced defrost timer. The Assistant Secretary, in granting the waiver, acknowledged the role of technology advances in evaluating the need for test procedure waivers. With this current petition, Electrolux again seeks to change how it tests its new models to take into account advances in sensing technology, *i.e.*, sensors that detect temperature and humidity conditions and interact with controls to vary the effective wattage of anti-sweat heaters to evaporate excess sweat.

The following basic Electrolux refrigerator and refrigerator-freezer models featuring anti-sweat technology are subject to this Petition and include, but are not limited to, bottom mount, bottom mount French door, and side by side models, with and without through the door ice and water. The actual model numbers will vary to account for year of manufacture, product color, or other features (*e.g.*, whether or not the unit has through the door ice and water or other features), but will always include anti-sweat technology whose energy impact is calculated in accordance with this Petition.

CRS23***	FFCU23****	FGHS26****	FGUN23****	FGHB28****
CRS26***	FGHC23****	FGUS26****	FPHN23****	FGUB28****
FFHS23****	FGCU23****	FPHS26****	FPUN23****	FPHB28****
FFUS23****	FPHC23****	FPUS26****	EI23BC****	FPUB28****
FGHS23****	FPCU23****	EI26SS****	EW23BC****	FGHN28****
FGUS23****	FFSC23****	EW26SS****	E23BC*****	FGUN28****
FPHS23****	EI23CS****	FGHF23****	FFHB26****	FPHN28****
FPUS23****	EW23CS****	FGUB23****	FFUB26****	FPUN28****
EI23SS****	E23CS****	FPHF23****	FFHN26****	EI28BS****
EW23SS****	FFHS26****	FPUB23****	FFUN26****	EW28BS****
FFHC23****	FFUS26****	FGHN23****	EI26BS****	

As with the models covered by the prior petitions, Electrolux proposes to run the energy-consumption test with the anti-sweat heater switch in the "off" position and then, because the test chamber is not humidity-controlled, to add to that result the kilowatt hours per day derived by calculating the energy used when the anti-sweat heater is in the "on" position. This contribution will be calculated by the same method that was proposed by GE and Whirlpool in their Petitions for Waiver,[7] as well as by

[3] 10 CFR § 430.27(m).

[4] 10 CFR § 430.27(l).

[5] 10 CFR Part 430, Subpart B, App. A1.

[6] Granting of the Application for Interim Waiver and Publishing of the Petition for Waiver of Electrolux Home Products from the DOE Refrigerator and Refrigerator-Freezer Test Procedure (Case No. RF–005), 66 Fed. Reg. 40,689 (Aug. 3, 2001).

[7] Publication of the Petition for Waiver of General Electric Company From the Department of Energy Refrigerator and Refrigerator/Freezer Test Procedures, 72 Fed. Reg. 19,189 (Apr. 17, 2007); Publication of the Petition for Waiver of Whirlpool

Continued

Electrolux in its earlier Petition. The objective of the proposed approach is to simulate the average energy used by the adaptive anti-sweat heaters as activated in typical consumer households across the United States.

In formulating its Petition, GE conducted research to determine the average humidity level experienced across the United States. The result of this research was that GE was able to determine the probability that any U.S. household would experience certain humidity conditions during any month of the year. This data was consolidated into 10 bands each representing a 10% range of relative humidity. In submitting this Petition, Electrolux is confirming the validity of using such bands to represent the average humidity experienced across the United States and will adopt the same population weighting as proposed by GE. The bands proposed by GE are as follows:

% Relative humidity	Probability (percent)	Constant designation
1. 0–10	3.4	A1
2. 10–20	21.1	A2
3. 20–30	20.4	A3
4. 30–40	16.6	A4
5. 40–50	12.6	A5
6. 50–60	11.9	A6
7. 60–70	6.9	A7
8. 70–60	4.7	A8
9. 80–90	0.8	A9
10. 90–100	1.5	A10

Since system losses are involved with operating anti-sweat heaters, Electrolux proposes to include in the calculation a factor to account for such energy. This additional energy includes the electrical energy required to operate the anti-sweat heater control and related components, and the additional energy required to increase compressor run time to remove heat introduced into the refrigerator compartments by the anti-sweat heater. Based on Electrolux's experience, this "System-loss Factor" is 1.3. Simply stated, the Correction Factor that Electrolux proposes to add to the energy-consumption test results obtained with the anti-sweat heater switch in the "off" position is calculated as follows:

Correction Factor = (Anti-sweat Heater Power × System-loss Factor) × (24 hours/1 day) × (1 kW/1000 W)

Continue by calculating the national average power in watts used by the anti-sweat heaters. This is done by totaling the product of constants A1–A10 multiplied by the respective heater watts used by a refrigerator operating in the median percent relative humidity for that band and the following standard refrigerator conditions:

- ambient temperature of 72 °F;
- fresh food (FF) average temperature of 45 °F; and
- freezer (FZ) average temperature of 5 °F.

Anti-sweat Heater Power = A1 * (Heater Watts at 5% RH)
+ A2 * (Heater Watts at 15% RH)
+ A3 * (Heater Watts at 25% RH)
+ A4 * (Heater Watts at 35% RH)
+ A5 * (Heater Watts at 45% RH)
+ A6 * (Heater Watts at 55% RH)
+ A7 * (Heater Watts at 65% RH)
+ A8 * (Heater Watts at 75% RH)
+ A9 * (Heater Watts at 85% RH)
+ A10 * (Heater Watts at 95% RH)

As explained above, bands A1–A10 were selected as representative of humidity conditions in all U.S. households. Utilizing such weighed bands will allow the calculation of the national average energy consumption for each product.

Based on the above, Electrolux proposes to test its new models as if the test procedure were modified to calculate the energy of the unit with the anti-sweat heaters in the on position as equal to the energy of the unit tested with the anti-sweat heaters in the off position plus the Anti-Sweat Heater Power times the System Loss Factor (expressed in KWH/YR).

II. Application for Interim Waiver

Pursuant to Department regulations, the Assistant Secretary will grant an Interim Waiver "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 on the Petition for Waiver." [8]

The DOE letter granting the Electrolux Interim Waiver recognized that:

* * * public policy would favor granting Electrolux an Interim Waiver, pending determination of the Petition for Waiver. On February 27, 2008, DOE granted the General Electric Company ("GE") a waiver from the refrigerator-freezer test procedure because it takes neither ambient humidity nor adaptive technology into account. 73 FR 10425. The test procedure would not accurately represent the energy consumption of refrigerator-freezers containing relative humidity sensors and adaptive control anti-sweat heaters. This argument is equally applicable to Electrolux, which has products containing similar relative humidity sensors and anti-sweat heaters. Electrolux is seeking a very similar waiver to the one DOE granted to GE, with the same alternate test procedure, and it is very likely Electrolux's Petition for Waiver will be granted. As Electrolux noted in its November 6, 2008 and July 13, 2009, Petitions for Waiver and Applications for Interim Waiver, the Company could have designed its adaptive anti-sweat system so that the anti-sweat heaters showed no impact during energy testing. However, like GE and Whirlpool Corporation, Electrolux is following the intent of the regulations to more accurately represent the energy consumed by the new refrigerators when used in the home.

In addition to more fairly and accurately representing the actual energy usage of appliances equipped with this technology, anti-sweat heaters are now a well-recognized and widely used technology in the industry. The alternate test procedure that is the subject of this Waiver request is now the established method by which the energy performance of anti-sweat heaters is measured, and Electrolux has invested heavily to implement this procedure for its new models. Consequently, requiring Electrolux to use the energy test procedure at 10 CFR § 430.27 would impose an economic hardship on the Company. The adaptive anti-sweat system in the Electrolux models referenced above is similar to those addressed by the March 3, 2009 Interim Waiver granted to Electrolux by the Department, and June 4, 2009, **Federal Register** notice.[9] Accordingly, Electrolux respectfully submits that sufficient grounds exist for the Assistant Secretary to grant the Electrolux Application for Interim Waiver.

III. Conclusion

Electrolux urges the Assistant Secretary to grant its Petition for Waiver and Application for Interim Waiver to allow Electrolux to test its new refrigerator models as noted above. Granting Electrolux's Petition for Waiver will encourage the introduction of advanced technologies while providing proper consideration of energy consumption.

IV. Affected Persons

Primarily affected persons in the refrigerator-freezer category include BSH Home Appliances Corp. (Bosch-

Corporation From the Department of Energy Refrigerator and Refrigerator/Freezer Test Procedures, 73 Fed. Reg. 39,684 (July 10, 2008).

[8] 10 CFR § 430.27(g).

[9] *See supra* note 2.

Siemens Hausgerate GmbH), Equator, Fisher & Paykel Appliances Inc., GE Appliances, Haier America Trading, L.L.C., Heartland Appliances, Inc., Liebherr Hausgerate, LG Electronics Inc., Northland Corporation, Electrolux Electronics America, Inc., Sanyo Fisher Company, Sears, Sub-Zero Freezer Company, U–Line, Viking Range, W. C. Wood Company, and Whirlpool Corporation. The Association of Home Appliance Manufacturers is also generally interested in energy efficiency requirements for appliances. Electrolux will notify all these entities as required by the Department's rules and provide them with a version of this Petition.

Sincerely,

Sheila A. Millar,

cc: Michael Raymond, DOE Office of Energy Efficiency and Renewable Energy

[FR Doc. 2010–1756 Filed 1–27–10; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Proposed Subsequent Arrangement

AGENCY: Office of International Regimes and Agreements, Department of Energy.

ACTION: Subsequent Arrangement.

SUMMARY: This notice has been issued under the authority of Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160). The Department is providing notice of a proposed subsequent arrangement under the Agreement for Cooperation between the United States of America and the Government of Canada Concerning Peaceful Uses of Nuclear Energy and the Agreement for Cooperation in the Peaceful Uses of Nuclear Energy between the United States and the European Atomic Energy Community (EURATOM).

This subsequent arrangement concerns the retransfer of 229,290 kg of U.S.-origin natural uranium hexafluoride (67.6%), 155,000 kg of which is uranium, from Cameco in Saskatoon, Saskatchewan, Canada to Urenco in Capenhurst Works, Chester, United Kingdom. The material, which is currently located at Cameco, Blind River, will be transferred to Urenco for toll enrichment at their Capenhurst UK facility. The natural uranium hexafluoride was originally obtained by Cameco from Crowe Butte Resources Inc. pursuant to export license XSOU8798.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, we have determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Dated: January 21, 2010.

For the Department of Energy.

Richard Goorevich,

Director, Office of International Regimes and Agreements.

[FR Doc. 2010–1750 Filed 1–27–10; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Proposed Subsequent Arrangement

AGENCY: Office of International Regimes and Agreements, Department of Energy.

ACTION: Subsequent arrangement.

SUMMARY: This notice has been issued under the authority of Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160). The Department is providing notice of a proposed subsequent arrangement under the Agreement for Cooperation between the United States of America and the Government of Canada Concerning Peaceful Uses of Nuclear Energy and the Agreement for Cooperation in the Peaceful Uses of Nuclear Energy between the United States and the European Atomic Energy Community (EURATOM).

This subsequent arrangement concerns the retransfer of 229,290 kg of U.S.-origin natural uranium hexafluoride (67.6%), 155,000 kg of which is uranium, from Cameco in Saskatoon, Saskatchewan, Canada to Urenco in Capenhurst Works, Chester, United Kingdom. The material, which is currently located at Cameco, Blind River, will be transferred to Urenco for toll enrichment at their Capenhurst UK facility. The natural uranium hexafluoride was originally obtained by Cameco from Crowe Butte Resources Inc. pursuant to export license XSOU8798.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, we have determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Dated: January 21, 2010.

For the Department of Energy.

Richard Goorevich,

Director, Office of International Regimes and Agreements.

[FR Doc. 2010–1754 Filed 1–27–10; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 7481–145]

NYSD Limited Partnership; Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

January 21, 2010.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Amendment of recreation plan.

b. *Project No:* 7481–145.

c. *Date Filed:* October 27, 2009.

d. *Applicant:* Boralex Hydro Operations, Inc., on behalf of NYSD Limited Partnership.

e. *Name of Project:* New York State Dam Hydroelectric Project.

f. *Location:* Mohawk River in Albany and Saratoga Counties, NY.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a—825r.

h. *Applicant Contact:* Daniel McCarty, Boralex Hydro Operations, Inc., 39 Hudson Falls Road, South Glens Falls, New York 12803. Tel: (518) 747–0930.

i. *FERC Contact:* Mark Carter, (202) 502–6554, and e-mail *mark.carter@ferc.gov.*

j. *Deadline for filing comments, motions to intervene, and protests:* February 22, 2010.

All documents (original and eight copies) should be filed with: Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Please include the project number (P–7481–145) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, it must also serve a copy of the document on that resource agency. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.