Sub-recommendation 4—Amend 10 CFR Part 830 by incorporating the revised version of DOE Standard 3009–94 into the text as a requirement, instead of as a safe harbor cited in Table 2.

The purpose of a "safe-harbor" is to provide a standard methodology that, if followed, will provide credible analyses and adequate safety. Nothing in the concept implies that "safe-harbor" methodologies are the only way to meet requirements. Of course, alternative approaches must be approved by DOE, and the criteria for accepting these alternatives should be clearly defined.

DOE is planning to review 10 CFR 830 (issued in 2001), which identifies nuclear safety requirements, but we cannot commit to the exact language prescribed in the Recommendation-that is placing Standard 3009 in the body of the rule. As a part of our review, we will update DOE Standard 3009, clearly identifying those provisions that are mandatory. When DOE Standard 3009 is not applied, appropriate means for reviewing and improving alternative methodologies will be established. This will assure implementation of DOE Standard 3009, where appropriate, while maintaining the flexibility to improve the standard, as needed. This approach has allowed DOE to make several important improvements to DOE Standards in the past. Details of the revision process will be provided in the Implementation Plan.

Sub-recommendation 5—Formally establish the minimum criteria and requirements that govern Federal approval of the DSA, by revision of DOE Standard 1104–2009, and other appropriate documents. The criteria and requirements should include: (followed by five paragraphs labeled a–e).

DOE agrees with the need for clear guidelines and requirements on the appropriate delegation of nuclear safety authorities and will revise DOE Standard 1104–2009 and other appropriate DOE documents to achieve this. DOE will implement the specific steps identified in paragraphs (a) through (d) of this sub-recommendation. However, DOE cannot commit to implementing paragraph (e) as written, because it implies that quantitative risk-based decision making must be established and used. The Department is exploring how quantitative methods could be applied to support decision-making on safety issues at our sites and will keep the Board apprised of developments in this area. Today, deterministic and qualitative means are used.

The Department agrees that the decision to approve safety bases must rest on a documented conclusion. The conclusion should indicate that the safety basis provides a reasonable assurance that the facility can be operated safely, that the hazards have been adequately analyzed, and that the engineered and administrative controls provide adequate protection for the public, workers and the environment. The Implementation Plan will outline DOE's revision to standard 3009 and the safety basis development process, will clarify the safety basis approval process, and identify how the steps in this sub-recommendation will be addressed.

Sub-recommendation 6—Formally identify the responsible organization and identify the processes for performing independent oversight to ensure the responsibilities identified in Item 5 above are fully implemented.

DOE has already identified the responsible organization for performing independent oversight for the Secretary: the Office of Independent Oversight, within the Office of Health, Safety and Security (HSS). However, HSS Independent Oversight protocols and delegation processes will be reviewed and modified as necessary to assure adequate oversight of nuclear safety delegations. The Implementation Plan will describe the steps DOE will take, review and update the protocols and delegation processes.

We appreciate your advice and will continue working closely with the Board to improve the Department's Directives in a manner that meets our shared objectives to the safe, effective, and efficient execution of our mission. We look forward to working further with the Board and its staff as we prepare the Implementation Plan.

If you have any further questions please contact Glenn Podonsky, Chief, Office of Health, Safety and Security, at 202–287–6071.

Sincerely,

Steven Chu.

[FR Doc. 2011–7085 Filed 3–24–11; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

[Case No. RF–018]

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

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

ACTION: Notice of petition for waiver, notice of granting application for interim waiver, and request for public comments.

SUMMARY: This notice announces receipt of and publishes the Samsung Electronics America, Inc. (Samsung) petition for waiver (hereafter, "petition") from specified portions of the U.S. Department of Energy (DOE) test procedure for determining the energy consumption of electric refrigerators and refrigerator-freezers. The waiver request pertains to Samsung's product lines that incorporate multiple defrost cycles. In its petition, Samsung provides an alternate test procedure that DOE recently published in an interim final rule. DOE solicits comments, data, and information concerning Samsung's petition and the suggested alternate test procedure. DOE also publishes notice of the grant of an interim waiver to Samsung.

DATES: DOE will accept comments, data, and information with respect to the Samsung Petition until, but no later than April 25, 2011.

ADDRESSES: You may submit comments, identified by case number "RF–017," 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 the case number [Case No. RF–017] 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 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. Elizabeth Kohl, 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) 586–7796. *E-mail: Elizabeth.Kohl@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.[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 which measure the energy efficiency, energy use, or estimated annual operating costs of a covered product, and that are not unduly burdensome to conduct. (42 U.S.C. 6293(b)(3)) The test procedure for automatic electric refrigerators and refrigerator-freezers is contained in 10 CFR part 430, subpart B, appendix A1.

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 pro-visions 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. Petition for Waiver of Test Procedure

On January 27, 2011, Samsung 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. Samsung is designing new refrigerator-freezers that incorporate multiple defrost cycles. In its petition, Samsung 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 does not account for multiple defrost cycles. Therefore, Samsung has asked to use an alternate test procedure that DOE recently published in an interim final rule (75 FR 78810, December 16, 2010).

III. Application for Interim Waiver

Samsung also requests an interim waiver from the existing DOE test procedure. Under 10 CFR 430.27(b)(2), each application for interim waiver must demonstrate likely success of the Petition for Waiver and address the economic hardship and/or competitive disadvantage that 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 has determined that Samsung'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 Samsung might experience absent a favorable determination on its application for interim waiver. DOE understands, however, that absent an interim waiver, Samsung's products would not be accurately tested and rated for energy consumption because the current energy test procedure does not include test procedures for products with multiple defrost cycle types. Therefore, it appears likely that Samsung's petition for waiver will be granted.

For the reasons stated above, DOE grants Samsung'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 Samsung is hereby granted for Samsung's refrigerator-freezer product lines that incorporate multiple defrost cycles subject to the specifications and conditions below.

1. Samsung shall not be required to test or rate its refrigerator-freezer product lines that incorporate multiple defrost cycles on the basis of the test procedure under 10 CFR part 430 subpart B, appendix A1.

2. Samsung 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."

[1] For editorial reasons, upon codification in the U.S. Code, part B was re-designated part A.

The interim waiver applies to the following basic model groups:

RS26*T***	RF266****	GFSF6KEX****
RSG257****	RF267****	GFSF6KKY****
RF428*****	RF268****	GFSL6KEX****
RFG293****	RF26X****	GFSL6KKY****
RFG295****	RB194****	GFSS6KEX****
RFG296****	RB195****	GFSS6KIX****
RFG297****	RB196****	GFSS6KKY****
RFG298****	RB197****	592 6570*
RFG299****	RB214****	592 6571*
RFG237****	RB215****	401.4100****
RFG238****	RB216****	401.40483800
RF4267****	RB217****	PFSF6PKX****
RFG267****	RF215****	PFSS6PKX****
RFG263****	RF217****	PFSS6SKX****
RSG309****	RF195****	PFSS9PKY****
RSG307****	RF197****	PFSS9SKY****
RF263****	DFSS9VKBSS	DFSS9VKBWW
RFG29P****	RFG29T****	DFSS9VKBBB
DFSF9VKBWW	DFSF9VKBBB	

DOE makes decisions on waivers and interim waivers for only those models specifically set out in the petition, not future models that may be manufactured by the petitioner. Samsung may submit a new or amended petition for waiver and request for grant of interim waiver, as appropriate, for additional models of refrigerator-freezers for which it seeks a waiver from the DOE test procedure. In addition, DOE notes that grant of an interim waiver or waiver does not release a petitioner from the certification requirements set forth at 10 CFR 430.62.

Further, 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

For the duration of the interim waiver, Samsung shall be required to test the products listed above according to the test procedures for residential electric refrigerator-freezers prescribed by DOE at 10 CFR part 430, subpart B, appendix A1, except that, for the Samsung products listed above only, include:

1. In section 1, *Definitions,* the following definition:

"Defrost cycle type" means a distinct sequence of control whose function is to remove frost and/or ice from a refrigerated surface. There may be variations in the defrost control sequence such as the number of defrost heaters energized. Each such variation establishes a separate distinct defrost cycle type. However, defrost achieved regularly during the compressor off-cycles by warming of the evaporator without active heat addition is not a defrost cycle type.

2. In section 4, *Test Period,* the following:

Systems with Multiple Defrost Frequencies. This section applies to models with long-time automatic or variable defrost control with multiple defrost cycle types, such as models with single compressors and multiple evaporators in which the evaporators have different defrost frequencies. A two-part method shall be used. The first part is a stable period of compressor operation that includes no portions of the defrost cycle, such as precooling or recovery, that is otherwise the same as the test for a unit having no defrost provisions. The second part is designed to capture the energy consumed during all of the events occurring with the defrost control sequence that are outside of stable operation, and will be conducted separately for each distinct defrost cycle type. For defrost cycle types involving the defrosting of both fresh food and freezer compartments, the freezer compartment temperature shall be used to determine test period start and stop times.

3. In section 5, *Test Measurements,* the following:

Long-time or Variable Defrost Control for Systems with Multiple Defrost cycle Types. The energy consumption in kilowatt-hours per day shall be calculated equivalent to:

$$ET = \left(1440 \times EP1/T1\right) + \sum_{i=1}^{D}\left[\left(EP2_i - \left(EP1 \times T2_i/T1\right)\right) \times \left(12/CT_i\right)\right]$$

Where:

1440 = conversion factor to adjust to a 24-hour period in minutes per day;

EP1 = energy expended in kilowatt-hours during the first part of the test;

T1 = length of time in minutes of the first part of the test;

12 = factor to adjust for a 50-percent run time of the compressor in hours per day;

i is a variable that can equal 1, 2, or more that identifies the distinct defrost cycle types applicable for the refrigerator or refrigerator-freezer;

$EP2_i$ = energy expended in kilowatt-hours during the second part of the test for defrost cycle type i;

$T2_i$ = length of time in minutes of the second part of the test for defrost cycle type i;

CT_i is the compressor run time between instances of defrost cycle type i, for long-time automatic defrost control equal to a fixed time in hours rounded to the nearest tenth of an hour, and for variable defrost control equal to $(CT_{Li} \times CT_{Mi})/(F \times (CT_{Mi} - CT_{Li}) + CT_{Li})$;

CT_{Li} = least or shortest compressor run time between instances of defrost cycle type i in hours rounded to the nearest tenth of an hour (CT_L must be greater than or equal to 6 but less than or equal to 12 hours);

CT_{Mi} = maximum compressor run time between instances of defrost cycle type i in hours rounded to the nearest tenth of an hour (greater than CT_{Li} but not more than 96 hours);

For cases in which there are more than one fixed CT value (for long-time defrost models) or more than one CT_M and/or CT_L value (for variable defrost models) for a given defrost cycle type, an average fixed CT value or average CT_M and CT_L values shall be selected for this cycle type so that 12 divided by this value or values is the frequency of occurrence of the defrost cycle type in a 24 hour period, assuming 50% compressor run time.

F = default defrost energy consumption factor, equal to 0.20.

For variable defrost models with no values for CT_{Li} and CT_{Mi} in the algorithm, the default values of 12 and 84 shall be used, respectively.

D is the total number of distinct defrost cycle types.

V. Summary and Request for Comments

Through today's notice, DOE grants Samsung an interim waiver from the specified portions of the test procedure applicable to Samsung's new line of refrigerator-freezers with multiple defrost cycles and announces receipt of Samsung's petition for waiver from those same portions of the test procedure. DOE publishes Samsung's petition for waiver pursuant to 10 CFR 430.27(b)(1)(iv). The petition includes a suggested alternate test procedure and calculation methodology to determine the energy consumption of Samsung's specified refrigerator-freezers with multiple defrost cycles. Samsung 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: Michael Moss, Director of Corporate Environmental Affairs, Samsung Electronics America, Inc., 18600 Broadwick St., Rancho Dominguez, CA 90220. 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 March 18, 2011.

Henry Kelly,

Acting Assistant Secretary, Energy Efficiency and Renewable Energy.

January 27, 2011

Catherine Zoi
Energy Efficiency and Renewable Energy
Department of Energy
1000 Independence Avenue, SW.,
Washington, DC 20585

Dear Assistant Secretary Zoi:

Samsung Electronics America, Inc. ("Samsung") respectfully submits this request Application for Interim Waiver and Petition for Waiver to the Department of Energy ("DOE" or "the Department") for Samsung's single compressor refrigerator-freezers with multiple defrost cycles.

Reasoning

10 CFR Part 430.27(a)(1) allows a person to submit a petition to waive for a particular basic model any requirements of § 430.23 upon the grounds that the basic model contains one or more design characteristics which either prevent 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. Additionally, 10 CFR Part 430.27(b)(2) allows an applicant to request an Interim Waiver if economic hardship and/or competitive disadvantage is likely to result absent a favorable determination on the Application for Interim Waiver.

Current test procedures as prescribed in Appendix A1 to Subpart B of Part 430 ("Appendix A1") inadequately addresses refrigerator-freezers with multiple defrost cycles, providing Samsung little ability to represent the energy data of its refrigerator-freezers with multiple defrost. DOE also recognized in 75 FR 78837 [2] that Appendix A1 to Subpart B of Part 430 does not address refrigerator-freezers with multiple defrost cycles, which supports Samsung's concerns about the ability to apply Appendix A1 to Samsung manufactured refrigerator-freezers. DOE also communicated that all manufacturers planning on marketing refrigerator-freezers with multiple defrost cycles must seek a waiver from the Department.[3]

Samsung expects that ■ of its new 2011 refrigerator-freezer models will utilize the multiple defrost cycles. Without the Interim Waiver, Samsung will face economic hardship due to inability to accurately represent its refrigerator-freezer's energy consumption, losing $■■ in sales. For these reasons, Samsung believes that the granting of Interim Waiver and Waiver to Samsung is warranted.

Request

In 75 FR 78810 (December 16, 2010), DOE issued an interim final rule for Appendix A ("Appendix A"), effective April 15, 2011, that effectively addresses test methodologies for refrigerator-freezers with multiple defrost cycles. Samsung requests that the April 15, 2011 Appendix A test methodology be expeditiously granted for Samsung refrigerator-freezers with multiple defrost cycles.

The new test methodology of Appendix A, effective on April 15, 2011, is appropriate and necessary for our refrigerator-freezers with multiple defrost cycles. Meanwhile, Samsung believes for the time being that the existing energy efficiency limits are adequate. Samsung therefore does not seek an alternate energy efficiency limit for these models at this time.

Samsung requests that the efficient limits under § 430.32(a) are applied to the following Samsung manufactured basic models:

RS26*T***	RF266****	GFSF6KEX****
RSG257****	RF267****	GFSF6KKY****
RF428*****	RF268****	GFSL6KEX****
RFG293****	RF26X****	GFSL6KKY****
RFG295****	RB194****	GFSS6KEX****
RFG296****	RB195****	GFSS6KIX****
RFG297****	RB196****	GFSS6KKY****
RFG298****	RB197****	592 6570*
RFG299****	RB214****	592 6571*
RFG237****	RB215****	401.4100****
RFG238****	RB216****	401.40483800
RF4267****	RB217****	PFSF6PKX****
RFG267****	RF215****	PFSS6PKX****
RFG263****	RF217****	PFSS6SKX****
RSG309****	RF195****	PFSS9PKY****
RSG307****	RF197****	PFSS9SKY****
RF263****		

Please feel free to contact me if you have any questions regarding Petition for Waiver and Application for Interim Waiver. I will be happy to discuss should any questions arise.

Sincerely,

Michael Moss,
Director of Corporate Environmental Affairs.

[FR Doc. 2011–7089 Filed 3–24–11; 8:45 am]

BILLING CODE 6450–01–P

[2] In DOE's view, the current energy test procedure does not include test procedures for products with multiple defrost cycle types. For this reason, there is no basis for manufacturers' claims that the amendment would impact energy use measurements. DOE has no documentation regarding the test procedures manufacturers are using to certify these products, and has received no petitions for waivers suggesting the need for any such test procedures.

[3] Until these amendments are required in conjunction with the 2014 standards, manufacturers introducing products equipped with multiple defrost cycle types should, consistent with 10 CFR 430.27, petition for a waiver since the modified version of Appendix A1 set out in today's notice will not include a specified method for capturing this energy usage.

DEPARTMENT OF ENERGY

Energy Efficiency and Renewable Energy

State Energy Advisory Board (STEAB)

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

ACTION: Notice of open teleconference.

SUMMARY: This notice announces a teleconference call of the State Energy Advisory Board (STEAB). The Federal Advisory Committee Act (Pub. L. 92–463; 86 Stat.770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Thursday, April 21, 2011 3:30 to 4:30 p.m. (EST) The call in number is