with section 735(a)(2) of the Act and 19 CFR 351.210(b)(2), because: (1) our preliminary determination is affirmative; (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise; and, (3) no compelling reasons for denial exist, we are granting this request and are postponing the final determination until no later than 135 days after the publication of this notice in the **Federal Register**. Suspension of liquidation will be extended accordingly.

**ITC Notification**

In accordance with section 733(f) of the Act, we have notified the ITC of the Department's preliminary affirmative determination. If the Department's final determination is

affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether imports of bricks from Mexico are materially injuring, or threatening material injury to, the U.S. industry (*see* section 735(b)(2) of the Act). Because we are postponing the deadline for our final determination to 135 days from the date of the publication of this preliminary determination, the ITC will make its final determination no later than 45 days after our final determination.

**Public Comment**

Interested parties are invited to comment on the preliminary determination. Interested parties may submit case briefs to the Department no later than seven days after the date of the issuance of the last verification report in this proceeding. *See* 19 CFR 351.309(c)(1)(i). Rebuttal briefs, the content of which is limited to the issues raised in the case briefs, must be filed within five days from the deadline date for the submission of case briefs. *See* 19 CFR 351.309(d)(1). A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. Further, we request that parties submitting briefs and rebuttal briefs provide the Department with a copy of the public version of such briefs on diskette. In accordance with section 774 of the Act, the Department will hold a public hearing, if timely requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by an interested party. *See also* 19 CFR 351.310(d). If a timely request for a hearing is made in this investigation, we intend to hold the hearing two days after the rebuttal brief deadline date at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, at a time and in a room to be determined. Parties should confirm by telephone, the date, time, and location of the hearing 48 hours before the scheduled date.

Interested parties who wish to request a hearing, or to participate in a hearing if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. At the hearing, oral presentations will be limited to issues raised in the briefs.

This determination is issued and published pursuant to sections 733(f) and 777(i)(1) of the Act.

Dated: March 3, 2010.

**Carole A. Showers,**

*Acting Deputy Assistant Secretary for Import Administration.*

[FR Doc. 2010–5369 Filed 3–10–10; 8:45 am]

**BILLING CODE 3510–DS–S**

## DEPARTMENT OF ENERGY

**[Case No. RF–013]**

### Energy Conservation Program for Consumer Products: Publication of the Petition for Waiver and Notice of Granting the Application for Interim Waiver of Haier 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 Haier Group and Haier America Trading, L.L.C. (Haier) 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 Haier'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, Haier has suggested an alternate test procedure that considers adaptive control technology when measuring energy consumption. DOE solicits comments, data, and information concerning Haier's Petition and the suggested alternate test procedure. DOE also publishes notice of the grant of an interim waiver to Haier.

**DATES:** DOE will accept comments, data, and information with respect to the Haier Petition until, but no later than, April 12, 2010.

**ADDRESSES:** You may submit comments, identified by case number "RF–013," 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–013], and/or "Haier 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, 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 of the Energy Policy and Conservation Act sets forth a variety of provisions concerning energy efficiency. Part A of Title III provides for the "Energy Conservation Program for Consumer Products Other Than Automobiles." (42 U.S.C. 6291–6309). Part A includes definitions, test procedures, labeling provisions, energy conservation standards, and the authority to require information and reports from manufacturers. Further, Part A authorizes the Secretary of Energy to prescribe test procedures that are reasonably designed to produce results that measure energy efficiency, energy use, or estimated operating costs, and that are not unduly burdensome to conduct. (42 U.S.C. 6293(b)(3)). The test procedure for residential refrigerators and refrigerator-freezers is contained in 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 part 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 additional 180 days, if necessary. (10 CFR 430.27(h)).

## II. Petition for Waiver of Test Procedure

On January 11, 2010, Haier 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. Haier 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, Haier's technology is similar to that used by General Electric Company (GE), Whirlpool Corporation (Whirlpool), and Electrolux for refrigerator-freezers which were the subject of petitions for waiver published April 17, 2007 (72 FR 19189), July 10, 2008 (73 FR 39684), and June 4, 2009 (74 FR 26853), respectively. GE's waiver was granted on February 27, 2008 (73 FR 10425). Whirlpool's waiver was granted on May 5, 2009 (74 FR 20695). Electrolux' waiver was granted on December 15, 2009. (74 FR 66338). DOE also granted Samsung Electronics America, Inc. (Samsung) an interim waiver for similar products on December 15, 2009 (74 FR 66340).

In its petition, Haier 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, Haier states that the test procedure does not accurately measure the energy consumption of Haier's new refrigerators and refrigerator-freezers that feature variable anti-sweat heater controls and adaptive heaters. Consequently, Haier 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. Haier's alternate test procedure is the same in all relevant particulars as that prescribed for other manufacturers 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

Haier 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 Haier'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 Haier might experience absent a favorable determination on its application for interim waiver. However, DOE understands that absent an interim waiver, Haier's products would not otherwise be tested and rated for energy consumption on a comparable basis with equivalent products for which DOE previously granted waivers, and would be required to represent a higher energy consumption for essentially the same product. Furthermore, it appears likely that Haier's Petition for Waiver will be granted, and it is desirable for public policy reasons to grant Haier immediate relief pending a determination on the petition for waiver. As stated above, DOE has already granted similar waivers to GE, Whirlpool, and Electrolux, as well as an interim waiver to Samsung, 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 Haier, 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 Haier'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 Haier is hereby granted for Haier's refrigerator-freezer product line containing relative humidity sensors and adaptive control anti-sweat heaters, subject to the specifications and conditions below.

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

2. Haier 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:

| | | | | |
|---|---|---|---|---|
| RBFS21SIBP | RBFS21SIBE | RBFS21SIBS | RBFS21TIBP | RBFS21TIBE |
| RBFS21TIBS | RBFS21EDBP | RBFS21EDBE | RBFS21EDBS | HB21QC10NP |
| HB21QC10NE | HB21QC10NS | HB21QC40NP | HB21QC40NE | HB21QC40NS |
| HB21QC70NP | HB21QC70NE | HB21QC70NS | HB21FC10NP | HB21FC10NE |
| HB21FC10NS | HB21FC40NP | HB21FC40NE | HB21FC40NS | HB21FC70NP |
| HB21FC70NE | HB21FC70NS | HB25QC10NP | HB25QC10NE | HB25QC10NS |
| HB25QC40NP | HB25QC40NE | HB25QC40NS | HB25QC70NP | HB25QC70NE |
| HB25QC70NS | HB25FC10NP | HB25FC10NE | HB25FC10NS | HB25FC40NP |
| HB25FC40NE | HB25FC40NS | HB25FC70NP | HB25FC70NE | HB25FC70NS |
| H21BFC45 | | | | |

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**

Haier'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, as described below. 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 temperature and humidity 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, Haier is using the same data compiled by GE for its determination of the anti-sweat heater energy use. Like GE, Whirlpool, and Electrolux, Haier 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, Haier 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 Haier 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 derive 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 Haier an interim waiver from the specified portions of the test procedure applicable to Haier's new line of refrigerators and refrigerator-freezers with variable anti-sweat heater controls and adaptive heaters, and announces receipt of Haier's petition for waiver from those same portions of the test procedure. DOE publishes Haier'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 Haier's specified refrigerators and refrigerator-freezers with adaptive anti-sweat heaters. Haier 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: Robert Cunningham, Senior Vice President of Product Innovation and Engineering, Major Appliances, Haier America Trading, L.L.C., 1356 Broadway, New York, New York 10018; Telephone: (212) 594–3330. 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 4, 2010.

**Cathy Zoi,**

*Assistant Secretary, Energy Efficiency and Renewable Energy.*

January 11, 2010.

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

Re: *Petition for Waiver and Application for Interim Waiver for Refrigerator-Freezers with Adaptive Anti-Sweat Heater Technology*

Dear Assistant Secretary Zoi: Pursuant to 10 CFR 430.27, Haier Group and Haier America Trading, L.L.C.[1] respectfully submit this Petition for Waiver and Application for Interim Waiver for refrigerator-freezer models that incorporate adaptive anti-sweat heater technology. The Department of Energy (DOE) has already granted waiver relief to General Electric, Whirlpool, Electrolux, and Samsung for products with such technology. Without waiver relief, Haier will be placed at a severe competitive disadvantage.

### I. Identification of Petitioner/Applicant

Haier is a manufacturer and marketer of major appliances and electronics, including, but not limited to, refrigerators, freezers, air conditioners, dishwashers, microwaves, laundry products, small appliances, electronics, vacuums, wine cellars and televisions.

The parent entity is Haier Group, whose corporate headquarters are located at 1 Haier Road, High-Tech Zone, Qingdao 266101, China. Haier America Trading, L.L.C., a New York limited liability company, is the sales and marketing entity for Haier in the United States and elsewhere in the Western Hemisphere. Its headquarters are located at The Haier Building, 1356 Broadway, New York, New York 10018.

### II. A Waiver Should Be Granted

Haier is developing, and intends shortly to introduce into the marketplace, refrigerator-freezers with anti-sweat heater technology that reacts according to different ambient conditions such as humidity and temperature. As with General Electric, Whirlpool, Electrolux, and Samsung, a waiver and interim waiver for Haier refrigerator-freezers with adaptive anti-sweat heater technology are warranted because DOE's current test procedure under the Energy Policy and Conservation Act (EPCA), 42 U.S.C. 6291 *et seq.,* evaluates them in a manner so unrepresentative of their true energy consumption characteristics as to provide materially inaccurate comparative data, and/or the basic models contain one or more design characteristics that prevent testing of the basic model according to the prescribed test procedures. DOE's rules provide that a waiver "will be granted" in such situations. 10 CFR 430.27(l).

The current DOE test procedure, id. Part 430, Subpart B, Appendix A1, prevents Haier from accurately evaluating its refrigerator-freezers that have this adaptive anti-sweat heater technology. The DOE test procedure as applied to these products will yield different test results depending on the relative ambient relative humidity in the test chamber. The test procedure does not specify a value for the relative ambient humidity in the test chamber.

Haier's adaptive anti-sweat heater technology is similar to that used by General Electric, Whirlpool, Electrolux, and Samsung for refrigerator-freezers that were the subject of waiver relief. See, 74 FR 66338 (Dec. 15, 2009) (Electrolux; grant of waiver); id. 66340 (Dec. 15, 2009) (Samsung; grant of interim waiver); id. 26853 (June 4, 2009) (Electrolux; grant of interim waiver); id. 20695 (May 5, 2009) (Whirlpool; grant of waiver); 73 FR 10425 (Feb. 27, 2008) (General Electric; grant of waiver).

Therefore, Haier should not be required to test or rate its refrigerator-freezer product lines containing adaptive anti-sweat heaters technology on the basis of the test procedure under 10 CFR Part 430, Subpart B, Appendix A1. Instead, as with the other companies for which waiver relief has been granted, Haier should be required to test and rate these products line according to an alternative test procedure. The alternative test procedure would provide for the test to be run with the anti-sweat heater switch in the "off" position and then, because the test chamber is not humidity-controlled, there would be added to that result the kilowatt hours per day derived by calculating the energy used when the anti-sweat heater is in the "on" position.

Specifically, Haier should be required to test the products for which a waiver is granted according to the test procedures for electric refrigerator-freezers prescribed by DOE at 10 CFR Part 430, Appendix A1, except that, for the Haier products:

(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.

[1] For convenience, we sometimes refer generally herein to "Haier."

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 + (Heater Contribution) [note: called "correction factor" by General Electric]

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.

Heater Contribution n1 = (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)
v+ 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 [degrees] F ambient, and DOE reference temperatures of fresh food average temperature of 45 [degrees] F and freezer average temperature of 5 [degrees] F.

System-loss Factor = 1.3

* * * * *

The waiver should apply to the following model series. The actual model numbers will vary to account for year of manufacture, product color, or other features, but will always include anti-sweat technology whose energy impact is calculated in accordance with this petition.

| | | | | |
|---|---|---|---|---|
| RBFS21SIBP | RBFS21SIBE | RBFS21SIBS | RBFS21TIBP | RBFS21TIBE |
| RBFS21TIBS | RBFS21EDBP | RBFS21EDBE | RBFS21EDBS | HB21QC10NP |
| HB21QC10NE | HB21QC10NS | HB21QC40NP | HB21QC40NE | HB21QC40NS |
| HB21QC70NP | HB21QC70NE | HB21QC70NS | HB21FC10NP | HB21FC10NE |
| HB21FC10NS | HB21FC40NP | HB21FC40NE | HB21FC40NS | HB21FC70NP |
| HB21FC70NE | HB21FC70NS | HB25QC10NP | HB25QC10NE | HB25QC10NS |
| HB25QC40NP | HB25QC40NE | HB25QC40NS | HB25QC70NP | HB25QC70NE |
| HB25QC70NS | HB25FC10NP | HB25FC10NE | HB25FC10NS | HB25FC40NP |
| HB25FC40NE | HB25FC40NS | HB25FC70NP | HB25FC70NE | HB25FC70NS |
| H21BFC45 | | | | |

The waiver should continue until a test procedure can be developed and adopted that will provide the U.S. market with a fair and accurate assessment of the Haier products.

**III. An Interim Waiver Should Be Granted**

Haier also requests immediate relief by grant of an Interim Waiver. Haier would be placed at a competitive disadvantage if an Interim Waiver is not granted to it, as the energy consumption data will not be comparable to that of other manufacturers that were granted waiver relief.

Furthermore, it is likely that Haier's Petition for Waiver will be granted, and it is desirable for public policy reasons to grant Haier immediate relief pending a determination on the Petition for Waiver. As stated above, DOE has already granted waiver relief to General Electric, Whirlpool, Electrolux, and Samsung because the DOE test procedure does not accurately represent the energy consumption of refrigerator-freezers containing this technology. The rationale for granting these waivers is equally applicable to Haier. 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. *See, e.g.,* 74 FR 66338, 66339 (Dec. 15, 2009); id. 66340, 66341 (Dec. 15, 2009).

**IV. Persons To Be Notified**

Manufacturers of all other basic models marketed in the United States and known to Haier to incorporate similar design characteristics as found in the Haier refrigerator-freezers include BSH Home Appliances Corp. (Bosch-Siemens Hausgerate GmbH), Electrolux Home Products, Equator, Fisher & Paykel Appliances Inc., GE Appliances, Gorenje USA, Heartland Appliances, Inc., Kelon Electrical Holdings Co., Ltd., Liebherr Hausgerate, LG Electronics Inc., Miele, Inc., Northland Corporation, Samsung Electronics America, Inc., Sanyo Fisher Company, Sub-Zero Freezer Company, ULine, Viking Range, and Whirlpool Corporation. The Association of Home Appliance Manufacturers is also generally interested in energy efficiency requirements for appliances, including refrigerator-freezers. Haier will notify all these entities as set forth in the Department's rules and provide them with a version of this Petition and Application.

**V. Conclusion**

DOE should grant a waiver and interim waiver for Haier refrigerator-freezers with adaptive anti-sweat heater technology. The waiver should continue until a test procedure can be developed and adopted that will provide the U.S. market with a fair and accurate assessment of the Haier products.

Haier certifies that all manufacturers of domestically marketed units of the same product type have been notified by letter of this petition and application. Copies of such letter and related certification are attached hereto.

Sincerely,
Robert Cunningham,
*Senior Vice President of Product Innovation and Engineering, Major Appliances, Haier America Trading, L.L.C.*

[FR Doc. 2010–5226 Filed 3–10–10; 8:45 am]

**BILLING CODE 6450–01–P**

## DEPARTMENT OF ENERGY

### Biomass Research and Development Technical Advisory Committee

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

**ACTION:** Notice of Open Meeting.

**SUMMARY:** This notice announces an open meeting of the Biomass Research and Development Technical Advisory Committee under Section 9008(d) of the Food, Conservation, and Energy Act of 2008. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that agencies publish these notices in the **Federal Register** to allow for public participation. This notice announces the meeting of the Biomass Research and Development Technical Advisory Committee.

*Dates and Times:* April 1, 2010 at 8 am to 5 pm; April 2, 2010 at 12:30 pm to 3 pm.

**ADDRESSES:** Hyatt Regency Crystal City, Washington Room A, 2799 Jefferson Davis Highway, Arlington, VA 22202, (703) 418–1234.

**FOR FURTHER INFORMATION CONTACT:** Laura McCann, Designated Federal Official for the Committee, Office of Energy Efficiency and Renewable Energy, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585; (202) 586–7766; E-mail: *laura.mccann@ee.doe.gov* or T.J. Heibel at (410) 997–7778 ext. 223; E-mail: *theibel@bcs-hq.com.*

**SUPPLEMENTARY INFORMATION:**

*Purpose of Meeting:* To provide advice and guidance that promotes research and development leading to the production of biobased fuels and biobased products.

*Tentative Agenda: Agenda will include the following:*