testing the combinations likely to have the highest volume of retail sales, Fujitsu may test a ''tested combination'' selected in accordance with the provisions of subparagraph (B) of this paragraph. Additionally, instead of following the provisions of 10 CFR 430(m)(2)(i) and (ii) for every other system combination using the same outdoor unit as the tested combination, Fujitsu shall make representations concerning the Airstage variable refrigerant flow multi-split products covered in this waiver according to the provisions of subparagraph (C) below.

(ii) Fujitsu shall be required to comply with 10 CFR part 430, subpart B, Appendix M as amended by the final rule published in the **Federal Register** on October 22, 2007. 72 FR 59906. The test procedure changes applicable to multi-split products are in sections: 2.1, 2.2.3, 2.4.1, 3.2.4 (including Table 6), 3.6.4 (including Table 12), 4.1.4.2, and 4.2.4.2.

(B) *Tested combination.* The term ''tested combination'' means a sample basic model comprised of units that are production units, or are representative of production units, of the basic model being tested. For the purposes of this waiver, the tested combination shall have the following features:

(i) The basic model of a variable refrigerant flow system used as a tested combination shall consist of an outdoor unit that is matched with between two and five indoor units.

(ii) The indoor units shall:

(a) Represent the highest sales volume type models;

(b) Together, have a capacity between 95 percent and 105 percent of the capacity of the outdoor unit;

(c) Not, individually, have a capacity greater than 50 percent of the capacity of the outdoor unit;

(d) Have a fan speed that is consistent with the manufacturer's specifications; and

(e) All have the same external static pressure.

(C) *Representations.* In making representations about the energy efficiency of its Airstage variable refrigerant flow multi-split air conditioner and heat pump products, for compliance, marketing, or other purposes, Fujitsu must fairly disclose the results of testing under the DOE test procedure, doing so in a manner consistent with the provisions outlined below:

(i) For Airstage multi-split combinations tested in accordance with this alternate test procedure, Fujitsu must disclose these test results.

(ii) For Airstage multi-split combinations that are not tested, Fujitsu must make a disclosure based on the testing results for the tested combination and which are consistent with either of the two following methods, except that only method (a) may be used, if available:

(a) Representation of non-tested combinations according to an alternative rating method approved by DOE; or

(b) Representation of non-tested combinations at the same energy efficiency level as the tested combination with the same outdoor unit.

(4) This waiver shall remain in effect from the date of issuance of this Order until April 21, 2008, which is the effective date of a DOE final rule prescribing an amended test procedure appropriate to the model series manufactured by Fujitsu listed above. This final rule was published on October 22, 2007 (72 FR 59906).

(5) This waiver is conditioned upon the presumed validity of statements, representations, and documentary materials provided by the petitioner. This waiver may be revoked or modified at any time upon a determination that the factual basis underlying the Petition for Waiver is incorrect, or DOE determines that the results from the alternate test procedure are unrepresentative of the basic models' true energy consumption characteristics.

Issued in Washington, DC, on November 4, 2007.

Alexander A. Karsner,

Assistant Secretary, Energy Efficiency and Renewable Energy.

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DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

Energy Conservation Program for Consumer Products: Decision and Order Granting a Waiver to Samsung Air Conditioning From the Department of Energy Residential and Commercial Package Air Conditioner and Heat Pump Test Procedures [Case No. CAC–009]

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

ACTION: Decision and Order.

SUMMARY: This notice publishes the Department of Energy's Decision and Order in Case No. CAC–009, which grants a waiver to Samsung Air Conditioning (Samsung) from the existing Department of Energy (DOE) residential and commercial package air conditioner and heat pump test procedures for specified Digital Variable Multi (DVM) variable refrigerant flow multi-split products. As a condition of this waiver, Samsung must test and rate its DVM multi-split products according to the alternate test procedure set forth in this notice.

DATES: This Decision and Order is effective December 17, 2007.

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SUPPLEMENTARY INFORMATION: In accordance with 10 CFR 430.27(l) and 10 CFR 431.401(f)(4), notice is hereby given of the issuance of the Decision and Order set forth below. In this Decision and Order, DOE grants Samsung a waiver from the applicable DOE residential and commercial package air conditioner and heat pump test procedures [1] for its DVM multi-split products, subject to a condition requiring Samsung to test and rate its DVM multi-split products pursuant to the alternate test procedure provided in this notice. Today's decision requires that Samsung may not make any representations concerning the energy efficiency of these products unless such product has been tested in accordance with the DOE test procedure, consistent with the provisions and restrictions in the alternate test procedure set forth in the Decision and Order below, and such representation fairly discloses the results of such testing.[2] (42 U.S.C. 6293(c))

[1] For residential products, the applicable test procedure is set forth in 10 CFR part 430, subpart B, Appendix M. For commercial products, the applicable test procedure is the Air-Conditioning and Refrigeration Institute (ARI) Standard 340/360–2004, ''Performance Rating of Commercial and Industrial Unitary Air-Conditioning and Heat Pump Equipment'' (incorporated by reference at 10 CFR 431.95(b)(2)).

[2] Consistent with the statute, distributors, retailers, and private labelers are held to the same standard when making representations regarding the energy efficiency of these products. (42 U.S.C. 6293(c))

Issued in Washington, DC, on November 4, 2007.

Alexander A. Karsner,

Assistant Secretary, Energy Efficiency and Renewable Energy.

Decision and Order

In the Matter of: Samsung Air Conditioning (Samsung) (Case No. CAC–009).

Background

Title III of the Energy Policy and Conservation Act (EPCA) sets forth a variety of provisions concerning energy efficiency, including Part B of Title III which establishes the ''Energy Conservation Program for Consumer Products Other Than Automobiles.'' (42 U.S.C. 6291–6309) Similar to the Program in Part B, Part C of Title III provides for an energy efficiency program titled, ''Certain Industrial Equipment,'' which includes commercial air conditioning equipment, package boilers, water heaters, and other types of commercial equipment. (42 U.S.C. 6311–6317)

Today's notice involves residential products under Part B, as well as commercial equipment under Part C. Under both parts, the statute specifically includes definitions, test procedures, labeling provisions, energy conservation standards, and the authority to require information and reports from manufacturers. With respect to test procedures, both parts generally authorize the Secretary of Energy (the Secretary) to prescribe test procedures that are reasonably designed to produce results which reflect energy efficiency, energy use, and estimated annual operating costs, and that are not unduly burdensome to conduct. (42 U.S.C. 6293(b)(3), 6314(a)(2))

Relevant to the current Petition for Waiver, the test procedure for residential central air conditioning and heat pump products is set forth in 10 CFR part 430, subpart B, Appendix M. For commercial package air conditioning and heating equipment, EPCA provides that ''the test procedures shall be those generally accepted industry testing procedures or rating procedures developed or recognized by the Air-Conditioning and Refrigeration Institute [ARI] or by the American Society of Heating, Refrigerating and Air-Conditioning Engineers [ASHRAE], as referenced in ASHRAE/IES Standard 90.1 and in effect on June 30, 1992.'' (42 U.S.C. 6314(a)(4)(A)) Under 42 U.S.C. 6314(a)(4)(B), the statute further directs the Secretary to amend the test procedure for a covered commercial product if the industry test procedure is amended, unless the Secretary determines that such a modified test procedure does not meet the statutory criteria set forth in 42 U.S.C. 6314(a)(2) and (3).

On December 8, 2006, DOE published a final rule adopting test procedures for commercial package air conditioning and heating equipment, effective January 8, 2007. 71 FR 71340. DOE adopted ARI Standard 210/240–2003 for commercial package air conditioning and heating equipment with capacities <65,000 British thermal units per hour (Btu/h) and ARI Standard 340/360–2004 for commercial package air conditioning and heating equipment with capacities ≥65,000 Btu/h and <240,000 Btu/h. *Id.* at 71371. Pursuant to this rulemaking, DOE's regulations at 10 CFR 431.95(b)(2) incorporate by reference the relevant ARI standards, and 10 CFR 431.96 directs manufacturers of commercial package air-conditioning and heating equipment to use the appropriate procedure when measuring energy efficiency of those products. (The cooling capacities of Samsung's DVM multi-split products fall in the ranges covered by ARI Standard 340/360–2004 and the DOE test procedure for residential products referred to above.)

In addition, DOE's regulations contain provisions allowing a person to seek a waiver from the test procedure requirements for covered consumer products, when the petitioner's basic model contains one or more design characteristics that prevent testing according to the prescribed test procedures, or when the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption as to provide materially inaccurate comparative data. 10 CFR 430.27(a)(1). The waiver provisions for commercial equipment are substantively identical to those for covered consumer products and are found at 10 CFR 431.401. Petitioners must include in their petition any alternate test procedures known to evaluate the basic model in a manner representative of its energy consumption. 10 CFR 430.27(b)(1)(iii); 10 CFR 431.401(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); 10 CFR 431.401(f)(4). In general, a waiver terminates on the effective date of a final rule which prescribes amended test procedures appropriate to the model series manufactured by the petitioner, thereby eliminating any need for the continuation of the waiver. 10 CFR 430.27(m); 10 CFR 430.401(g).

The waiver process also allows any interested person who has submitted a Petition for Waiver to file an Application for Interim Waiver of the applicable test procedure requirements. 10 CFR 430.27(a)(2); 10 CFR 431.401(a)(2). An Interim Waiver remains in effect for a period of 180 days or until DOE issues its determination on the Petition for Waiver, whichever occurs first, and may be extended by DOE for 180 days, if necessary. 10 CFR 430.27(h); 10 CFR 431.401(e)(4).

On October 7, 2003, Samsung filed a Petition for Waiver and an Application for Interim Waiver from the test procedures applicable to its DVM line of residential and commercial multi-split air conditioning and heating equipment. Samsung's petition requested a waiver from both the residential and commercial test procedures. The applicable residential test procedures are contained in 10 CFR part 430, subpart B, Appendix M, and the applicable commercial test procedures are contained in ARI Standard 340/360–2004 [3] (incorporated by reference at 10 CFR 431.95(b)(2)). Samsung seeks a waiver from the applicable test procedures because the design characteristics of its DVM systems prevent testing according to the currently prescribed test procedures.

On February 28, 2005, DOE published Samsung's Petition for Waiver and granted the Application for Interim Waiver. 70 FR 9630. In a similar and relevant case, DOE published a Petition for Waiver from Mitsubishi Electric and Electronics USA, Inc. (MEUS) for products very similar to Samsung's DVM products. 71 FR 14858 (March 24, 2006). In the March 24, 2006 **Federal Register** notice, DOE also published and requested comment on an alternate test procedure for the MEUS products at issue. DOE stated that if it specified an alternate test procedure for MEUS in the subsequent Decision and Order, DOE would consider applying the same procedure to similar waivers for residential and commercial central air conditioners and heat pumps, including such products for which waivers had previously been granted. Most of the comments responded favorably to DOE's

[3] In its petition, Samsung also requested a waiver from ARI Standard 210/240–2003 (incorporated by reference at 10 CFR 431.95(b)(1)). However, based on a review of the products listed by Samsung in its petition, DOE has determined that none of these products has the combined features (i.e., three-phase power and rated capacity less than 65,000 Btu/h) as would necessitate a waiver from ARI Standard 210/240–2003.

proposed alternate test procedure. Also, there was general agreement that an alternate test procedure is necessary while a final test procedure for these types of products is being developed. The MEUS Decision and Order, including the alternate test procedure, was published in the **Federal Register** on April 9, 2007. 72 FR 17528.

DOE received comments on the Samsung Petition from Carrier Corporation (Carrier), Daikin U.S. Corporation, and Fujitsu General. These comments are discussed below.

Assertions and Determinations

Samsung's Petition for Waiver

On October 7, 2003, Samsung submitted a Petition for Waiver and an Application for Interim Waiver from the test procedures applicable to residential and commercial package air-conditioning and heating equipment for its new DVM multi-split products. Samsung's petition presented several arguments in support of its claim that the design characteristics of its DVM multi-split systems prevent testing according to the currently prescribed test procedures. Specifically, Samsung claimed that no other product currently available for sale in the U.S. offers the ability of a direct expansion system to vary its capacity every 20 seconds between 10 percent and 100 percent of the building design load, and argued that no existing test procedure can provide a method for rating at those capacity points. Samsung also asserted that existing test procedures do not require calculating integrated part-load values in the heating mode and do not account for either the benefits of the DVM system's zoned cooling or the inherent benefits of eliminating duct loss in a ductless system.

Therefore, the Samsung Petition requested that DOE grant a waiver from existing test procedures until such time as a representative test procedure is developed and adopted for this class of products. Samsung did not include an alternate test procedure in its Petition for Waiver. (However, DOE understands that Samsung is actively working with ARI to develop test procedures that accurately reflect the operation and energy consumption of these particular product designs.)

Regardless of their accuracy, DOE believes that these assertions are inapposite to the present case for the reasons that follow. First, for commercial systems at or above 65,000 Btu/h and less than 135,000 Btu/h, EPCA mandates use of the full load energy efficiency ratio (EER) descriptor, and the relevant energy performance is the peak-load efficiency, not the seasonal energy savings. (42 U.S.C. 6313(a)(1)(C)) A waiver can only be granted if a test procedure does not fairly represent the peak-load energy consumption characteristics, which EER measures. For Samsung's residential models, the seasonal energy efficiency ratio (SEER) captures some of the benefits of the DVM multi-split products' part-load efficiency. Nevertheless, there are deficiencies in the current DOE test methods and calculation algorithms when applied to multi-split systems. DOE has previously acknowledged these limitations in its current test procedure, and accordingly, MEUS was granted a waiver on the following grounds:

1. No existing test procedure provides a method for testing and rating a system that utilizes one outdoor unit and sixteen indoor units.

2. No existing test procedure can provide a method for rating systems where the type and capacity of the indoor unit can be mixed in the same system. The DVM system can mix together six different indoor models with seven different capacities, resulting in over 1,000 combinations.

Given the present situation, Samsung can make the same claims regarding its DVM multi-split products. Therefore, the bases for Samsung's Petition for Waiver involve: (1) The problem of being physically unable to test most of the complete systems in a laboratory; (2) difficulties associated with the regulatory requirement to test the highest-sales-volume combination; and (3) the lack of a method for predicting the performance of untested combinations.

Of the three comments on the Samsung petition, only Carrier Corporation (Carrier) expressed opposition. Carrier claimed that Samsung's DVM multi-split systems could be tested using the calorimeter air enthalpy test method set forth in ASHRAE Standard 37, ''Methods of Testing for Rating Unitary Air-Conditioning and Heat Pump Equipment.'' Although DOE believes that use of this test, as Carrier recommends, is theoretically possible and would likely provide more accurate results in the cooling mode, it is not a practical solution because existing calorimeter test rooms are too small to test Samsung's DVM multi-split systems with more than three or four indoor units. DOE believes that its alternate test procedure (discussed below) effectively addresses these objections.

As mentioned above, DOE recently addressed a situation regarding multi-split products that is relevant to the Samsung products at issue here. Specifically, on March 24, 2006, DOE published in the **Federal Register** a Petition for Waiver from MEUS relating to its R410A CITY MULTI VRFZ products, which are very similar to Samsung's DVM multi-split products. 71 FR 14858. In that publication, DOE stated:

> To provide a test procedure from which manufacturers can make valid representations, the Department is considering setting an alternate test procedure for MEUS in the subsequent Decision and Order. Furthermore, if DOE specifies an alternate test procedure for MEUS, DOE is considering applying the alternate test procedure to similar waivers for residential and commercial central air conditioners and heat pumps. Such cases include Samsung's petition for its DVM products (70 FR 9629, February 28, 2005), Fujitsu's petition for its Airstage variable refrigerant flow (VRF) products (70 FR 5980, February 4, 2005), and MEUS's petition for its R22 CITY MULTI VRFZ products (69 FR 52660 (August 27, 2004).

71 FR 14858, 14861 (March 24, 2006).

Since that time, DOE has developed such an alternate test procedure. Thus, in order to enable Samsung to make energy efficiency representations for its specified DVM multi-split products, DOE has decided to require use of the alternate test procedure described below, as a condition of Samsung's waiver. This alternate test procedure is substantially the same as the one that DOE applied to the MEUS waiver.

DOE's Alternate Test Procedure

The alternate test procedure has two basic components. First, it permits Samsung to designate a ''tested combination'' for each model of outdoor unit. The indoor units designated as part of the tested combination must meet specific requirements. For example, the tested combination must have from two to five indoor units so that it can be tested in available test facilities. The tested combination must be tested according to the applicable DOE test procedure, as modified by the provisions of the alternate test procedure. Second, having a DOE test procedure that can be applied to its product allows Samsung to represent the energy efficiency of that product, because any such representation must fairly disclose the results of such testing. The DOE test procedure, as modified by the alternate test procedure provided in this Decision and Order, provides for testing of a non-tested combination in two ways: (1) at an energy efficiency level determined under a DOE-approved alternative rating method; or (2) if the first method is not available, then at the efficiency level of

the tested combination utilizing the same outdoor unit. Until an alternative rating method is developed, all combinations with a particular outdoor unit may use the rating of the combination tested with that outdoor unit.

DOE believes that adopting this alternate test procedure as described above (thereby allowing Samsung to make energy efficiency representations for non-tested combinations) is reasonable because the outdoor unit is the principal efficiency driver. The current test procedures tend to rate these products conservatively. The multi-zoning feature of these products, which enables them to cool only those portions of the building that require cooling, would be expected to use less energy than if the unit is operated to cool the entire home or a comparatively larger area of a commercial building in response to a single thermostat. This feature would not be captured by the test procedure, which requires full-load testing. Under full load, the entire building would require cooling. Additionally, the current test procedure for commercial equipment requires full-load testing, which disadvantages these products because they are optimized for best efficiency when operating with less than full loads. In fact, these products normally operate at part-load conditions. Therefore, the alternate test procedure will provide a conservative basis for assessing the energy efficiency for such products.

The alternate test procedure applies to both residential and commercial multi-split products. However, some provisions are specific to residential or commercial products. For example, section (A) of the alternate test procedure has different provisions for residential and commercial products. In contrast, section (B), which defines the combinations of indoor and outdoor units to test, and section (C), which sets forth the requirements for making representations, are the same for residential and commercial products.

Section (A) distinguishes between residential and commercial products for two reasons. First, 10 CFR 430.24, used for residential products, already has requirements for selecting split-system combinations based on the highest sales volume. However, 10 CFR part 431, which applies to commercial products, has no comparable requirements. Therefore, section (A) of the alternate test procedure modifies the existing residential and commercial requirements so that both residential and commercial products can use the same definition of a ''tested combination,'' which is set forth in section (B). Second, section (A) requires several test procedure revisions to determine the SEER and heating seasonal performance factor (HSPF) for the tested combination of residential products. No test procedure revisions are introduced for commercial products, because EPCA directs DOE to adopt generally accepted industry test standards for these commercial products (unless amendments to those industry test procedures are determined by clear and convincing evidence not to meet the requirements of the statute) (42 U.S.C. 6314(a)(4)). In contrast, for residential products, DOE develops its own test procedures, and the changes to the test procedure for residential products resulting from this notice relate to: (1) The requirement that all indoor units operate during all tests; (2) the restriction on using only one indoor test room; (3) the selection of the modulation levels (maximum, minimum, and a specified intermediate speed) used when testing; and (4) the algorithm for estimating performance over the intermediate speed operating range. DOE proposed these changes in its July 20, 2006 notice of proposed rulemaking. 71 FR 41320.

For today's Decision and Order, the changes made by the final rule published in the **Federal Register** on October 22, 2007 (72 FR 59906) to test procedure sections 2.1, 2.2.3, 2.4.1, 3.2.4 (including Table 6), 3.6.4 (including Table 12), 4.1.4.2, and 4.2.4.2 constitute mandatory elements of the alternate test procedure. These changes allow indoor units to cycle off, allow the manufacturer to specify the compressor speed used during certain tests, and introduce a new algorithm for estimating power consumption.

With regard to the laboratory testing of both residential and commercial products, some of the difficulties associated with the existing test procedure are avoided by the alternate test procedure's requirements for choosing the indoor units to be used in the manufacturer-specified tested combination. For example, in addition to limiting the number of indoor units, another requirement is that all of the indoor units must be subject to meeting the same minimum external static pressure. This requirement allows the test lab to manifold the outlets from each indoor unit into a common plenum that supplies air to a single airflow measuring apparatus. This requirement eliminates situations in which some of the indoor units are ducted and some are non-ducted. Without this requirement, the laboratory must evaluate the capacity of a subgroup of indoor coils separately, and then sum the separate capacities to obtain the overall system capacity. This would require that the test laboratory be equipped with multiple airflow measuring apparatuses (which is unlikely), or that the test laboratory connect its one airflow measuring apparatus to one or more common indoor units until the contribution of each indoor unit has been measured.

Furthermore, DOE stated in the notice publishing the MEUS Petition for Waiver that if the Department decides to specify an alternate test procedure for MEUS, it would consider applying the procedure to waivers for similar residential and commercial central air conditioners and heat pumps produced by other manufacturers. 71 FR 14858, 14861 (March 24, 2006). Most of the comments received by DOE in response to the March 2006 notice favored the proposed alternate test procedure. Commenters generally agreed that an alternate test procedure is appropriate for an interim period while a final test procedure for these products is being developed.

Based on the discussion above, DOE believes that the testing problems described above would prevent testing of Samsung's DVM basic models according to the test procedures currently prescribed in 10 CFR part 430, Subpart B, Appendix M, and ARI Standard 340/360–2004. After reviewing and considering all of the comments submitted regarding the proposed alternate test procedure, DOE has decided to adopt the proposed alternate test procedure, with the clarifications discussed above. DOE will also consider applying the same alternate test procedure to waivers for similar residential and commercial central air conditioners and heat pumps.

Consultations With Other Agencies

DOE consulted with the Federal Trade Commission (FTC) concerning the Samsung Petition for Waiver. The FTC did not have any objections to the issuance of a waiver to Samsung.

Conclusion

After careful consideration of all the material that was submitted by Samsung, the comments received, and consultation with the FTC, it is ordered that:

(1) The Petition for Waiver submitted by Samsung Air Conditioning (Samsung) (Case No. CAC–009) is hereby granted as set forth in the paragraphs below.

(2) Samsung shall not be required to test or rate its Digital Variable Multi (DVM) products listed below on the basis of the currently applicable test

procedures (contained in 10 CFR part 430, Subpart B, Appendix M, and ARI Standard 340/360–2004 (incorporated by reference in 10 CFR 431.95(b)(2)), but shall be required to test and rate such products according to the alternate test procedure as set forth in paragraph (3).

Commercial Systems: Any product using these outdoor units:

RVMH100FAMOU, RVMC100FAMOU, RVMC070FAM0U.

For these products, the applicable test procedure is ARI 340/360–2004, as amended by the alternate test procedure as set forth in paragraph (3).

Residential Systems: Any product using these outdoor units:

RVMH050CBM0U, RVMC050CBM0U.

For these products, the applicable test procedure is the residential test procedure contained in 10 CFR part 430, subpart B, appendix M, as amended by the alternate test procedure as set forth in paragraph (3).

DVM indoor units:

AVMKH020CAOU, AVMKC020CAOU, AVMKH032CAOU, AVMKC032CA0U, AVMKH040CA0U, AVMKC040CAOU, AVMCH052CAOU, AVMCC052CA0U, AVMCH072CAOU, AVMCC072CAOU, AVMCH105CAOU, AVMCC105CA0U, AVMBH020CAOU, AVMBC020CA0U, AVMBH032CAOU, AVMBC032CA0U, AVMBH040CAOU, AVMBC040CA0U, AVMBH052CAOU, AVMBC052CA0U, AVMBH072CAOU, AVMBC072CA0U, AVMHH105CAOU, AVMHC105CAOU, AVMHH128CAOU, AVMHC105CAOU, AVMDH052CA0U, AVMDC052CA0U, AVMDH072CA0U, AVMDC072CA0U, AVMWH020CAOU, AVMWCH020CAOU, AVMWH032CAOU, AVMWC032CAOU, AVMWH040CAOU, AVMWC040CAOU, AVMWH052CAOU, AVMWC052CAOU, AVMWH072CAOU, AVMWC072CAOU.

(3) *Alternate test procedure.*

(A) Samsung shall be required to test the products listed in paragraph (2) above according to the test procedures for central air conditioners and heat pumps prescribed by DOE at 10 CFR parts 430 and 431, except that:

(i) For products covered by 10 CFR part 430 (consumer products), Samsung shall not be required to comply with: (1) The first sentence in 10 CFR 430.24(m)(2), which refers to ''that combination manufactured by the condensing unit manufacturer likely to have the largest volume of retail sales;'' and (2) the third sentence in 10 CFR 430.24(m)(2), including the provisions of 10 CFR 430.24(m)(2)(i) and (ii). Instead of testing the combinations likely to have the highest volume of retail sales, Samsung may test a ''tested combination'' selected in accordance with the provisions of subparagraph (B) of this paragraph. Additionally, instead of following the provisions of 10 CFR 430.24(m)(2)(i) and (ii) for every other system combination using the same outdoor unit as the tested combination, Samsung shall make representations concerning the DVM multi-split products covered in this waiver according to the provisions of subparagraph (C) below.

(ii) For products covered by 10 CFR part 430 (consumer products), Samsung shall be required to comply with 10 CFR 430, subpart B, appendix M as amended by the final rule published in the **Federal Register** on October 22, 2007. 72 FR 59906. The test procedure changes applicable to multi-split products are in sections: 2.1, 2.2.3, 2.4.1, 3.2.4 (including Table 6), 3.6.4 (including Table 12), 4.1.4.2, and 4.2.4.2.

(iii) For products covered by 10 CFR part 431 (commercial products), Samsung shall test a ''tested combination'' selected in accordance with the provisions of subparagraph (B) of this paragraph. For every other system combination using the same outdoor unit as the tested combination, Samsung shall make representations concerning the DVM multi-split products covered in this waiver according to the provisions of subparagraph (C) below.

(B) *Tested combination.* The term ''tested combination'' means a sample basic model comprised of units that are production units, or are representative of production units, of the basic model being tested. For the purposes of this waiver, the tested combination shall have the following features:

(i) The basic model of a variable refrigerant flow system used as a tested combination shall consist of an outdoor unit that is matched with between two and five indoor units.

(ii) The indoor units shall:

(a) Represent the highest sales volume type models;

(b) Together, have a capacity between 95 percent and 105 percent of the capacity of the outdoor unit;

(c) Not, individually, have a capacity greater than 50 percent of the capacity of the outdoor unit;

(d) Have a fan speed that is consistent with the manufacturer's specifications; and

(e) All have the same external static pressure.

(C) *Representations.* In making representations about the energy efficiency of its DVM multi-split products, for compliance, marketing, or other purposes, Samsung must fairly disclose the results of testing under the DOE test procedure, doing so in a manner consistent with the provisions outlined below:

(i) For DVM combinations tested in accordance with this alternate test procedure, Samsung must disclose these test results.

(ii) For DVM combinations that are not tested, Samsung must make a disclosure based on the testing results for the tested combination and which are consistent with either of the two following methods, except that only method (a) may be used, if available:

(a) Representation of non-tested combinations according to an Alternative Rating Method (ARM) approved by DOE; or

(b) Representation of non-tested combinations at the same energy efficiency level as the tested combination with the same outdoor unit.

(4) This waiver shall remain in effect from the date of issuance of this Order until the effective date of a DOE final rule prescribing amended test procedures appropriate to the model series manufactured by Samsung listed above. This expiration date is April 21, 2008 for the Samsung residential products only, for which such DOE final rule was published on October 22, 2007 (72 FR 59906).

(5) This waiver is conditioned upon the presumed validity of statements, representations, and documentary materials provided by the petitioner. This waiver may be revoked or modified at any time upon a determination that the factual basis underlying the petition is incorrect, or DOE determines that the results from the alternate test procedure are unrepresentative of the basic models' true energy consumption characteristics.

Issued in Washington, DC, on November 4, 2007.

Alexander A. Karsner,

Assistant Secretary, Energy Efficiency and Renewable Energy.

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