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Dated: March 7, 2011.

James H. Shelton, III,

Assistant Deputy Secretary for Innovation and Improvement.

[FR Doc. 2011–5543 Filed 3–9–11; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

Energy Conservation Program for Consumer Products: Representative Average Unit Costs of Energy

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

ACTION: Notice.

SUMMARY: In this notice, the U.S. Department of Energy (DOE) is forecasting the representative average unit costs of five residential energy sources for the year 2011 pursuant to the Energy Policy and Conservation Act. The five sources are electricity, natural gas, No. 2 heating oil, propane, and kerosene.

DATES: The representative average unit costs of energy contained in this notice will become effective April 11, 2011 and will remain in effect until further notice.

FOR FURTHER INFORMATION CONTACT:

Mohammed Khan, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Forrestal Building, Mail Station EE–2J, 1000 Independence Avenue, SW., Washington, DC 20585–0121, (202) 586–7892, *Mohammed.Khan@ee.doe.gov*.

Francine Pinto, Esq. U.S. Department of Energy, Office of General Counsel, Forrestal Building, Mail Station GC–72, 1000 Independence Avenue, SW., Washington, DC 20585–0103, (202) 586–7432, *Francine.pinto@hq.doe.gov*.

SUPPLEMENTARY INFORMATION: Section 323 of the Energy Policy and Conservation Act (Act) requires that DOE prescribe test procedures for the measurement of the estimated annual operating costs or other measures of energy consumption for certain consumer products specified in the Act. (42 U.S.C. 6293(b)(3)) These test procedures are found in Title 10 of the Code of Federal Regulations (CFR) part 430, subpart B.

Section 323(b)(3) of the Act requires that the estimated annual operating costs of a covered product be calculated from measurements of energy use in a representative average use cycle or period of use and from representative average unit costs of the energy needed to operate such product during such cycle. (42 U.S.C. 6293(b)(3)) The section further requires that DOE provide information to manufacturers regarding the representative average unit costs of energy. (42 U.S.C. 6293(b)(4)) This cost information should be used by manufacturers to meet their obligations under section 323(c) of the Act. Most notably, these costs are used to comply with Federal Trade Commission (FTC) requirements for labeling. Manufacturers are required to use the revised DOE representative average unit costs when the FTC publishes new ranges of comparability for specific covered products, 16 CFR part 305. Interested parties can also find information covering the FTC labeling requirements at *http://www.ftc.gov/appliances*.

DOE last published representative average unit costs of residential energy in a **Federal Register** notice entitled, "Energy Conservation Program for Consumer Products: Representative Average Unit Costs of Energy", dated March 18, 2010, 75 FR 13123. Effective April 11, 2011, the cost figures published on March 18, 2010, will be superseded by the cost figures set forth in this notice.

DOE's Energy Information Administration (EIA) has developed the 2011 representative average unit after-tax costs found in this notice. The representative average unit after-tax costs for electricity, natural gas, No. 2 heating oil, and propane are based on simulations used to produce the February, 2011, EIA *Short-Term Energy Outlook.* (EIA releases the *Outlook* monthly.) The representative average unit after-tax cost for kerosene is derived from its price relative to that of heating oil, based on the 2005–2009 averages for these two fuels. The source for these price data is the January, 2011, *Monthly Energy Review* DOE/EIA–0035(2011/01). The *Short-Term Energy Outlook* and the *Monthly Energy Review* are available on the EIA Web site at *http://www.eia.doe.gov*. For more information on the two sources, contact the National Energy Information Center, Forrestal Building, EI–30, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–8800, *e-mail: infoctr@eia.doe.gov*.

The 2011 representative average unit costs under section 323(b)(4) of the Act are set forth in Table 1, and will become effective April 11, 2011. They will remain in effect until further notice.

Issued in Washington, DC, on March 3, 2011.

Cathy Zoi,

Assistant Secretary, Energy Efficiency and Renewable Energy.

TABLE 1—REPRESENTATIVE AVERAGE UNIT COSTS OF ENERGY FOR FIVE RESIDENTIAL ENERGY SOURCES (2011)

Type of energy	Per million Btu [1]	In commonly used terms	As required by test procedure
Electricity	$34.14	11.65¢/kWh [2,3]	$.1165/kWh.
Natural Gas	11.01	$1.101/therm [4] or $11.29/MCF [5 6]	.00001101/Btu.
No. 2 Heating Oil	24.59	$3.41/gallon [7]	.00002459/Btu.
Propane	27.70	$2.53/gallon [8]	.00002770/Btu.
Kerosene	28.81	$3.89/gallon [9]	.00002881/Btu.

Sources: U.S. Energy Information Administration, *Short-Term Energy Outlook* (February 2011) and *Monthly Energy Review* (January 2011).

1. Btu stands for British thermal units.
2. kWh stands for kilowatt hour.
3. 1 kWh = 3,412 Btu.
4. 1 therm = 100,000 Btu. Natural gas prices include taxes.
5. MCF stands for 1,000 cubic feet.
6. For the purposes of this table, one cubic foot of natural gas has an energy equivalence of 1,025 Btu.
7. For the purposes of this table, one gallon of No. 2 heating oil has an energy equivalence of 138,690 Btu.
8. For the purposes of this table, one gallon of liquid propane has an energy equivalence of 91,333 Btu.
9. For the purposes of this table, one gallon of kerosene has an energy equivalence of 135,000 Btu.

[FR Doc. 2011–5501 Filed 3–9–11; 8:45 am]
BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

[Case No. CW–014]

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

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

ACTION: Decision and Order.

SUMMARY: The U.S. Department of Energy (DOE) gives notice of the decision and order (Case No. CW–014) that grants to Samsung Electronics America, Inc. (Samsung) a waiver from the DOE clothes washer test procedure for determining the energy consumption of clothes washers. Under today's decision and order, Samsung shall be required to test and rate its clothes washers with larger clothes containers using an alternate test procedure that takes this technology into account when measuring energy consumption.

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

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

Elizabeth Kohl, U.S. Department of Energy, Office of the General Counsel, Mail Stop GC–71, 1000 Independence Avenue, SW., Washington, DC 20585–0103. *Telephone:* (202) 586–7796, *E-mail: mail to: Elizabeth.Kohl@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: In accordance with Title 10 of the Code of Federal Regulations (10 CFR 430.27(l)), DOE gives notice of the issuance of its decision and order as set forth below. The decision and order grants Samsung a waiver from the applicable clothes washer test procedure in 10 CFR part 430, subpart B, appendix J1 for certain basic models of clothes washers with capacities greater than 3.8 cubic feet, provided that Samsung tests and rates such products using the alternate test procedure described in this notice. Today's decision prohibits Samsung from making representations concerning the energy efficiency of these products unless the product has been tested consistent with the provisions and restrictions in the alternate test procedure set forth in the decision and order below, and the representations fairly disclose the test results. Distributors, retailers, and private labelers are held to the same standard when making representations regarding the energy efficiency of these products. 42 U.S.C. 6293(c).

Issued in Washington, DC, on March 3, 2011.

Cathy Zoi,

Assistant Secretary, Energy Efficiency and Renewable Energy.

Decision and Order

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

I. Background and Authority

Title III of the Energy Policy and Conservation Act (EPCA) sets forth a variety of provisions concerning energy efficiency. Part B of Title III provides for the "Energy Conservation Program for Consumer Products Other Than Automobiles." 42 U.S.C. 6291–6309.[1] Part B includes definitions, test procedures, labeling provisions, energy conservation standards, and the authority to require information and reports from manufacturers. Further, Part B authorizes the Secretary of Energy to prescribe test procedures that are reasonably designed to produce results that measure energy efficiency, energy use, or estimated operating costs, and that are not unduly burdensome to conduct. 42 U.S.C. 6293(b)(3). The test procedure for residential clothes washers, the subject of today's notice, is contained in 10 CFR part 430, subpart B, appendix J1.

DOE's regulations for covered products contain provisions allowing a person to seek a waiver for a particular basic model from the test procedure requirements for covered consumer products when (1) the petitioner's basic model for which the petition for waiver was submitted contains one or more design characteristics that prevent testing according to the prescribed test procedure, or (2) when prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption characteristics as to provide materially inaccurate comparative data. 10 CFR 430.27(a)(1). Petitioners must include in their petition any alternate test procedures known to the petitioner to evaluate the basic model in a manner representative of its energy consumption characteristics. 10 CFR 430.27(b)(1)(iii).

The Assistant Secretary for Energy Efficiency and Renewable Energy (the Assistant Secretary) may grant a waiver subject to conditions, including adherence to alternate test procedures. 10 CFR 430.27(l). Waivers remain in effect pursuant to the provisions of 10 CFR 430.27(m).

Any interested person who has submitted a petition for waiver may also file an application for interim waiver of the applicable test procedure requirements. 10 CFR 430.27(a)(2). The Assistant Secretary will grant an interim waiver request if it is determined that the applicant will experience economic hardship if the interim waiver is denied, if it appears likely that the petition for waiver will be granted, and/or the Assistant Secretary determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the petition for waiver. 10 CFR 430.27(g).

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

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

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

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

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