

July 26, 2007

DEPARTMENT OF ENERGY
OFFICE OF HEARINGS AND APPEALS

Application for Exception

Name of Case: Samsung Electronics America

Date of Filing: July 16, 2007

Case Number: TEE-0047

This Decision and Order considers an Application for Exception filed by Samsung Electronics America (Samsung) seeking relief from the provisions of 10 C.F.R. Part 430, Energy Conservation Program for Consumer Products: Energy Conservation Standards for Refrigerators, Refrigerator-Freezers and Freezers (Refrigerator Efficiency Standards).¹ In its exception request, Samsung asserts that the firm will suffer an undue hardship and inequity if required to adhere to the Refrigerator Efficiency Standards, codified at 10 C.F.R. § 430.32. If Samsung's Application for Exception is granted, the firm will receive exception relief from the energy efficiency standard applicable to a new automatic defrost refrigerator-freezer, with bottom-mounted freezer and through-the-door ice service. Samsung proposes to introduce this appliance into the marketplace. As set forth in this Decision and Order, we have concluded that Samsung's Application for Exception should be granted.

1/ Samsung originally filed its submission as an Application for Waiver under 10 C.F.R. § 430.27. However, it has been determined that Samsung's request for relief is more appropriately considered as an Application for Exception under 10 C.F.R. Part 1003, Subpart B-Exceptions. Samsung has agreed to this procedural approach. See Memorandum of July 20, 2007 Telephone Conversation. Accordingly, we will consider its application under that Subpart and will refer to its submission as an Application for Exception or exception request.

I. Background

A. Refrigerator Efficiency Standards

The Refrigerator Efficiency Standards, 10 C.F.R. Part 430, were published as a final rule by the Department of Energy (DOE) on April 28, 1997, 62 Fed. Reg. 23102, as mandated by Congress in Part B of Title III of the Energy Policy and Conservation Act, as amended, 42 U.S.C. §§6291-6309 (EPCA). In the EPCA, Congress directed that DOE review and revise energy conservation standards for major appliances, including refrigerator/freezer products, promulgated by the agency in 1989, 54 Fed. Reg. 47916 (November 17, 1989). EPCA § 325(b)(3)(B), 42 U.S.C. § 6295(b)(3)(B). Appliance manufacturers are prohibited from introducing into commerce any covered product that is not in compliance with the applicable energy efficiency standards established under the EPCA. 42 U.S.C. § 6302(a)(5). The Refrigerator Efficiency Standards were designed to reduce energy use in classes of refrigerator products by up to 30 percent below the prior standards, and thereby reduce consumer costs as well as emission of air pollutants associated with electricity production. ² The Refrigerator Efficiency Standards became effective July 1, 2001.

B. Application for Exception

Samsung is a producer of home electronics and appliances, with U.S. headquarters in Ridgefield, New Jersey, and corporate headquarters in Seoul, South Korea. Its refrigerator-freezers are built in South Korea and Mexico. The firm indicates that it has developed a bottom-mount freezer with through-the-door ice service. Samsung states in its Application for Exception that in the absence of exception relief, the firm will be unable to market its automatic defrost refrigerator-freezer with bottom-mounted freezer with through-the-door ice service. Since through-the-door ice service was not offered with bottom-mounted freezers at the time the Refrigerator Efficiency Standards were promulgated, there was no

^{2/} For each of eighteen classes of refrigerator products, the Refrigerator Efficiency Standards establish energy efficiency equations which limit energy usage. These equations are expressed in kilowatt-hours per year (kWh/yr). For example, the consumption equation for the product Class 4, "Refrigerator-Freezers--automatic defrost with side-mounted freezer without through-the-door ice service" is a maximum of "4.91AV+507.5," where AV is the "total adjusted volume" of the particular unit expressed in cubic feet.

energy efficiency standard established for this product within the eighteen classes of product established. At the same time, Samsung's product clearly fits within the regulatory definition of "electric refrigerator-freezer," 10 C.F.R. § 430.2, and it will be unable to meet the Class 5 energy standard applicable to refrigerator-freezers with bottom-mounted freezer without through-the-door ice server due to the energy loss inherent in adding the through-the-door ice service feature. Therefore, Samsung seeks relief from the existing energy efficiency standards that will permit it to market this product in the U.S. It requests that we allow it to apply an energy efficiency standard for its new automatic defrost refrigerator-freezer with bottom-mounted freezer with through-the-door ice service, based upon the incremental increase in allowable energy consumption properly attributable to this feature. We have received no interested party comments on Samsung's Application for Exception.

II. Analysis

The present case is virtually indistinguishable from one in which we granted exception relief from the Refrigerator Efficiency Standards to Maytag Corporation, which sought to market the same type of refrigerator: a bottom-mounted freezer with through-the-door ice service. *Maytag Corp.*, 29 DOE ¶ 81,009 (2005) (*Maytag*). Accordingly, we will provide Samsung the same type of relief that we granted to Maytag.

In *Maytag*, we determined that an appropriate standard for maximum energy use can be established for the firm's automatic defrost refrigerator-freezer, with bottom-mounted freezer with through-the-door ice service, by adding $0.40AV+80.0$ to the energy efficiency equation, $4.60AV+459.0$, established for "Refrigerator-Freezers - automatic defrost with bottom-mounted freezer without through-the-door ice service" (Class 5). The combination of these values yields an energy consumption standard of $5.0AV+539.0$.

Accordingly, Samsung will be granted exception relief establishing the energy standard equation for maximum energy use (kWh/yr) for Samsung's automatic defrost refrigerator-freezer, with bottom-mounted freezer with through-the-door ice service, of $5.0AV+539.0$. Samsung must label its new product in accordance with regulations of the Federal Trade Commission, 16 C.F.R. Part 305,³ and state the

^{3/} This labeling instruction is in accordance with Federal Trade Commission regulations set forth at 16 C.F.R. § 305.10(b),
(continued...)

expected energy consumption based upon appropriate testing under DOE test protocol. See 10 C.F.R. § 430.23(b). The exception relief granted in this decision will remain in effect until such time as the DOE promulgates an energy efficiency standard for "Refrigerator-Freezers-automatic defrost with bottom-mounted freezer with through-the-door ice service" or the DOE modifies the existing standard for "Refrigerator-Freezers-automatic defrost with bottom-mounted freezer without through-the-door ice service" (Class 5).

It Is Therefore Ordered That:

(1) The Application for Exception filed by Samsung Electronics America (Samsung) on July 16, 2007, is hereby granted as set forth in paragraphs (2) and (3) below.

(2) Notwithstanding the requirements of 10 C.F.R. Part 430(a), the energy standard equation for maximum energy use (kWh/yr) is established as $5.0AV+539.0$ for the "automatic defrost refrigerator-freezer, with bottom-mounted freezer with through-the-door ice service," produced by Samsung, as described in this decision. The exception relief granted in this decision will remain in effect until the DOE promulgates an energy efficiency standard for "Refrigerator-Freezers-automatic defrost with bottom-mounted freezer with through-the-door ice service" or the DOE modifies the existing standard for "Refrigerator-Freezers-automatic defrost with bottom-mounted freezer without through-the-door ice service" (Class 5).

(3) In marketing the refrigerator-freezer described in this decision, Samsung shall label its product in accordance with

3/ (...continued)
which states:

(b) When the estimated annual energy consumption or energy efficiency rating of a given model of a covered product falls outside the limits of the current range for that product, which could result from the introduction of a new or changed model, the manufacturer shall

(1) Omit placement of such product on the scale, and

(2) Add one of the two sentences below, as appropriate, in the space just below the scale, as follows:

The estimated annual energy consumption of this model was not available at the time the range was published.

The energy efficiency rating of this model was not available at the time the range was published.

regulations of the Federal Trade Commission, 16 C.F.R. Part 305, and state the expected energy consumption based upon appropriate testing under DOE test protocol. See 10 C.F.R. § 430.23(b).

(4) Any person aggrieved by the approval of exception relief in this Decision and Order may file an appeal with the Office of Hearings and Appeals in accordance with 10 C.F.R. Part 1003, Subpart C.

Fred L. Brown
Acting Director
Office of Hearings and Appeals

Date: July 26, 2007