



[6450-01-P]

**DEPARTMENT OF ENERGY**

**Office of Energy Efficiency and Renewable Energy**

[Case No. RF-044]

**Notice of Petition for Waiver of New Shunxiang Electrical Appliance Co., Ltd., from the Department of Energy Refrigerator, Refrigerator-Freezer, Freezer Test Procedures**

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

**ACTION:** Notice of petition for waiver and request for public comments.

**SUMMARY:** This notice announces receipt of and publishes a petition for waiver from New Shunxiang Electrical Appliance Co., Ltd. (“New Shunxiang”), seeking an exemption from specified portions of the U.S. Department of Energy (“DOE”) test procedure for determining the energy consumption of refrigerators and refrigerator-freezers under the regulations. New Shunxiang contends that the DOE test procedure does not clearly address its basic model JG50-2D1, which combines a compartment intended for storing wine (a cooler compartment) with a beverage cooler (a refrigerator compartment), and has petitioned for a waiver from appendix A. Although New Shunxiang did not propose an alternate test approach for its basic model, DOE has granted waivers for similar products. Therefore, DOE is considering whether to permit New Shunxiang to test and rate its basic model of combination cooler-refrigerator in a manner similar to that which DOE has permitted for other manufacturers with similar products. DOE also

solicits comments, data, and information concerning New Shunxiang's petition and on the alternate test procedure detailed in this document.

**DATES:** DOE will accept comments, data, and information with regard to the New Shunxiang petition until **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** You may submit comments, identified by Case Number RF-044, 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](mailto:AS_Waiver_Requests@ee.doe.gov) Include the case number [Case No. RF-044] in the subject line of the message. Submit electronic comments in WordPerfect, Microsoft Word, PDF, or ASCII file format, and avoid the use of special characters or any form of encryption.
- *Postal Mail:* Mr. Bryan Berringer, U.S. Department of Energy, Building Technologies Office, Mailstop EE-5B, Petition for Waiver Case No. RF-044, 1000 Independence Avenue, SW., Washington, DC 20585-0121. Telephone: (202) 586-0371. If possible, please submit all items on a compact disc (CD), in which case it is not necessary to include printed copies.
- *Hand Delivery/Courier:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, 950 L'Enfant Plaza, SW., Room 6055,

Washington, DC, 20024. Telephone: (202) 586-6636. Please submit one signed original paper copy.

*Docket:* The docket, which includes *Federal Register* notices, comments, and other supporting documents/materials, is available for review at [www.regulations.gov](http://www.regulations.gov). All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. However, some documents listed in the index, such as those containing information that is exempt from public disclosure, may not be publicly available.

**FOR FURTHER INFORMATION CONTACT:** Mr. Bryan Berringer, U.S. Department of Energy, Building Technologies Office, Mailstop EE-5B, 1000 Independence Avenue, SW., Washington, DC 20585-0121. Telephone: (202) 586-0371. E-mail: [AS\\_Waiver\\_Request@ee.doe.gov](mailto:AS_Waiver_Request@ee.doe.gov).

Mr. Michael Kido, U.S. Department of Energy, Office of the General Counsel, Mail Stop GC-33, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585-0103. Telephone: (202) 586-8145. E-mail: [Michael.Kido@hq.doe.gov](mailto:Michael.Kido@hq.doe.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Background and Authority**

Title III, Part B of the Energy Policy and Conservation Act of 1975 (“EPCA”) (42 U.S.C. 6291-6309) established the Energy Conservation Program for Consumer Products Other Than

Automobiles, a program that includes consumer refrigerators and refrigerator-freezers.<sup>1</sup> 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 measuring 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 consumer refrigerators and refrigerator-freezers is contained in 10 CFR part 430, subpart B, appendix A.

The regulations set forth in 10 CFR 430.27 contain provisions that allow a person to seek a waiver from the test procedure requirements for a particular basic model of a type of covered product when the petitioner's basic model for which the petition for waiver was submitted contains one or more design characteristics that: (1) prevent testing according to the prescribed test procedure, or (2) cause the prescribed test procedures to 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). A petitioner must include in its 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). DOE may grant the waiver subject to conditions, including adherence to alternate test procedures. 10 CFR 430.27(f)(2). As soon as practicable after the granting of any waiver, DOE will publish in the *Federal Register* a notice of proposed rulemaking to amend its regulations so as to eliminate any need for the continuation of such waiver. As soon thereafter as practicable, DOE will publish in the *Federal Register* a final rule. 10 CFR 430.27(l).

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<sup>1</sup> For editorial reasons, upon codification in the U.S. Code, Part B was re-designated Part A.

DOE recently published standards for miscellaneous refrigeration products (“MREFs”). See 81 FR 75194 (Oct. 28, 2016). Testing to demonstrate compliance with those standards will require manufacturers to use the MREF test procedure established in a final rule published in July 2016. See 81 FR 46768 (July 18, 2016) (MREF coverage determination and test procedure final rule) and 81 FR 49868 (July 29, 2016) (MREF test procedure final rule correction notice). Under these rules, DOE has determined that products such as those that are at issue here fall into the MREF category. Accordingly, consistent with these MREF-specific provisions, these products will be evaluated under prescribed procedures and against specified standards that are tailored to account for their particular characteristics.

## **II. Petition for Waiver**

By email with attachment sent to DOE on October 14, 2015, New Shunxiang submitted a petition for waiver for its combination cooler-refrigerator basic model JG50-2D1. In its petition, New Shunxiang stated that it was unclear how this product would be classified under DOE regulations. As indicated in New Shunxiang’s submitted data, the product includes both a cooler (with temperatures down to 40.2 °F) and a refrigerator (with temperatures down to 35 °F). Such a basic model is subject to the existing refrigerator energy conservation standards for the product class that would apply if the model did not include a cooler compartment.<sup>2</sup> Under DOE’s regulations prior to the MREF rulemakings, both compartments of the basic model would be tested using a standardized compartment temperature of 39 degrees Fahrenheit (°F). However,

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<sup>2</sup> See the relevant 2011 guidance documents for consumer refrigerators and freezers available at [https://www1.eere.energy.gov/buildings/appliance\\_standards/pdfs/hybridwinechiller\\_faq3\\_2011-02-10.pdf](https://www1.eere.energy.gov/buildings/appliance_standards/pdfs/hybridwinechiller_faq3_2011-02-10.pdf) and [https://www1.eere.energy.gov/buildings/appliance\\_standards/pdfs/hybridwinechiller\\_faq\\_2011-02-10.pdf](https://www1.eere.energy.gov/buildings/appliance_standards/pdfs/hybridwinechiller_faq_2011-02-10.pdf).

because the cooler compartment cannot reach this temperature, the basic model would have received no energy use rating under appendix A prior to the MREF rulemakings. Thus, New Shunxiang requested a waiver to test this basic model.

Although New Shunxiang did not include an alternate test procedure for its basic model, DOE is considering whether to allow New Shunxiang to test and rate its combination cooler-refrigerator basic model as detailed in section III of this document.

DOE granted a similar waiver to Panasonic Appliances Refrigeration Systems Corporation of America (“PAPRSA”) in 2012 (under PAPRSA’s previous corporate name, Sanyo E&E Corporation) (Case No. RF-022, 77 FR 49443 (August 16, 2012)), in 2013 (Case No. RF-031, 78 FR 57139 (Sept. 17, 2013)), and 2014 (Case No. RF-041, 79 FR 55769 (September 17, 2014)). On October 4, 2012, DOE issued a notice of correction to its Decision and Order in Case No. RF-022 by incorporating a K-factor (correction factor) value of 0.85 when calculating the energy consumption of the affected models. 77 FR 60688. On January 26, 2016, due to issues with the equations detailed in the prior waiver decisions, DOE issued a proposed modification of its prior waivers and granted PAPRSA with an interim waiver (81 FR 4270) under Case No. RF-043 to correct these known issues. DOE also previously granted a similar waiver to Sub-Zero Group Inc. through an interim waiver (79 FR 55772 (September 17, 2014)) and a subsequent Decision and Order (80 FR 7854 (February 12, 2015)) under Case No. RF-040. More recently, DOE granted a similar waiver to AGA Marvel through an interim waiver (81 FR 41531 (Jun 27, 2016)) and a subsequent Decision and Order (82 FR 21211 (May 5, 2017)) under

Case No. RF-045. DOE also granted the PAPRSA waiver through a Decision and Order on May 5, 2017 (82 FR 21209).

DOE's recently granted waivers to PAPRSA and AGA Marvel address refrigeration products similar to those identified in New Shunxiang's petition for waiver – products combining a high-temperature compartment (a cooler) with a refrigerator. The waivers granted to PAPRSA and AGA Marvel require that the manufacturers test the cooler compartment of these products at a standardized compartment temperature of 55 °F instead of the prescribed 39 °F. This temperature is consistent with the standardized compartment temperature for coolers established in the MREF test procedure final rule. See 81 FR 75194. The PAPRSA and AGA Marvel waivers also require that the manufacturers apply a correction factor of 0.85 rather than the 0.55 established in the MREF test procedure for determining compliance with refrigerator standards.

DOE, therefore, is considering permitting New Shunxiang to test its product using the alternate test approach detailed in section III of this document. This approach is consistent with that detailed in the recent waiver decisions cited earlier and would require the basic model JG50-2D1 to be tested under the alternate approach.

### **III. Alternate Test Procedure**

Although New Shunxiang did not provide an alternate test procedure for its basic model for DOE to consider (or request an interim waiver), DOE is considering whether to allow New Shunxiang to test and rate its combination cooler-refrigerator basic model JG50-2D1 on the basis

of the current test procedure contained in 10 CFR part 430, subpart B, appendix A, with the exception that it must calculate energy consumption using a correction factor (“K-factor”) of 0.85.

Therefore, under this approach, the energy consumption would be defined in the following manner:

If compartment temperatures are below their respective standardized temperatures for both test settings (according to 10 CFR part 430, subpart B, appendix A, section 6.2.4.1):

$$E = (ET1 \times 0.85) + IET.$$

If compartment temperatures are not below their respective standardized temperatures for both test settings, the higher of the two values calculated by the following two formulas (according to 10 CFR part 430, subpart B, appendix A, section 6.2.4.2):

Energy consumption of the “cooler compartment”:

$$ECooler\ Compartment = (ET1 + [(ET2-ET1) \times (55\ ^\circ F-TC1) / (TC2-TC1)]) \times 0.85 + IET$$

Energy consumption of the “fresh food compartment”:

$$EFreshFood\ Compartment = (ET1 + [(ET2-ET1) \times (39\ ^\circ F-TR1) / (TR2-TR1)]) \times 0.85 + IET.$$

The following basic model is included in New Shunxiang’s petition:

#### **IV. Summary and Request for Comments**

This document announces New Shunxiang's petition for waiver from appendix A for its basic model of a combination cooler-refrigerator and seeks comment on whether the company should be permitted to use the alternate test procedure described in this document for the identified basic model. DOE will consider the use of the alternate procedure in its subsequent Decision and Order. DOE is publishing New Shunxiang's request for a petition of waiver in its entirety pursuant to 10 CFR 430.27(b)(1)(iv). The petition contains no confidential information.

DOE solicits comments from interested parties on all aspects of the petition, including the alternate calculation methodology under consideration. New Shunxiang's cover email and attachment's text are both reproduced verbatim and are available in the docket identified in the **ADDRESSES** section in this document. See <https://www.regulations.gov/document?D=EERE-2017-BT-WAV-0002-0001> (containing product photographs and related information). Pursuant to 10 CFR 430.27(d), 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 Dolly <shunxiang187@163.com>, New Shunxiang Electrical Appliance Co., Ltd., Zhengxing Road, Nantou, Zhongshan, Guandong, China. All comment submissions to DOE must include the Case No. RF-044 for this proceeding. Submit electronic comments in 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: 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 July 11, 2017.

Kathleen B. Hogan,  
Deputy Assistant Secretary for Energy Efficiency  
Energy Efficiency and Renewable Energy

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