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6450-01-P

DEPARTMENT OF ENERGY

10 CFR Parts 429 and 430

[EERE-2023-BT-TP-0007]

RIN 1904-AF50

Energy Conservation Program: Test Procedure for Dishwashers

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

ACTION: Notice of proposed rulemaking and request for comment.

SUMMARY: In this notice of proposed rulemaking (“NOPR”), the U.S Department of Energy (“DOE”) proposes to add clarifying instructions regarding the detergent reporting requirements and an enforcement provision for dishwashers to specify the detergent and dosing method that DOE would use for any enforcement testing of dishwasher models certified in accordance with the currently applicable dishwasher test procedure prior to July 17, 2023 (*i.e.*, the date by which the dishwasher test procedure as amended by a final rule published on January 18, 2023, will be mandatory for product testing). DOE is also proposing to add within the amended test procedure clarifying instructions regarding the allowable dosing options for each type of detergent. DOE is seeking comment from interested parties on this NOPR.

DATES: *Comments:* DOE will accept comments, data, and information regarding this NOPR no later than **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

Meeting: DOE will hold a public meeting on this NOPR if one is requested by **[INSERT DATE 7 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. If a

public meeting is requested, DOE will announce its date and participation information on the DOE website and via email.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at *www.regulations.gov*, under docket number EERE–2023–BT–TP–0007. Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket number EERE–2023–BT–TP–0007, by any of the following methods:

Email: *Dishwashers2023TP0007@ee.doe.gov*. Include the docket number EERE–2023–BT–TP–0007 in the subject line of the message.

Postal Mail: Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, Mailstop EE-5B, 1000 Independence Avenue, SW., Washington, DC, 20585-0121. Telephone: (202) 287-1445. 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., 6th Floor, Washington, DC, 20024. Telephone: (202) 287-1445. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

No telefacsimiles (“faxes”) will be accepted. For detailed instructions on submitting comments and additional information on this process, see section IV of this document.

Docket: The docket for this activity, which includes *Federal Register* notices, public meeting attendee lists and transcripts (if a public meeting is held), comments, and other supporting documents/materials, is available for review at *www.regulations.gov*. All documents in the

docket are listed in the *www.regulations.gov* index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.

The docket webpage can be found at *www.regulations.gov/docket/EERE-2023-BT-TP-0007*. The docket webpage contains instructions on how to access all documents, including public comments, in the docket. See section IV for information on how to submit comments through *www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT:

Dr. Carl Shapiro, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE-5B, 1000 Independence Avenue, SW., Washington, DC, 20585-0121. Telephone: (202) 287-5649. Email [*ApplianceStandardsQuestions@ee.doe.gov*](mailto:ApplianceStandardsQuestions@ee.doe.gov).

Ms. Melanie Lampton, U.S. Department of Energy, Office of the General Counsel, GC-33, 1000 Independence Avenue, SW., Washington, DC, 20585-0121. Telephone: (240) 571-5157. Email: [*Melanie.Lampton@hq.doe.gov*](mailto:Melanie.Lampton@hq.doe.gov).

For further information on how to submit a comment and review other public comments and the docket, contact the Appliance and Equipment Standards Program staff at (202) 287-1445 or by email: [*ApplianceStandardsQuestions@ee.doe.gov*](mailto:ApplianceStandardsQuestions@ee.doe.gov).

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I. Authority and Background

A. Authority

The Energy Policy and Conservation Act, Pub. L. 94-163, as amended (“EPCA”),¹ authorizes DOE to regulate the energy efficiency of a number of consumer products and certain industrial equipment. (42 U.S.C. 6291–6317) Title III, Part B of EPCA² established the Energy Conservation Program for Consumer Products Other Than Automobiles, which sets forth a variety of provisions designed to improve energy efficiency. (42 U.S.C. 6281-6309) These products include dishwashers, the subject of this document. (42 U.S.C. 6292(a)(6))

The energy conservation program under EPCA consists essentially of four parts: (1) testing, (2) labeling, (3) Federal energy conservation standards, and (4) certification and enforcement procedures. Relevant provisions of EPCA specifically include definitions (42 U.S.C. 6291), test procedures (42 U.S.C. 6293), labeling provisions (42 U.S.C. 6294), energy

¹ All references to EPCA in this document refer to the statute as amended through the Energy Act of 2020, Pub. L. 116-260 (Dec. 27, 2020), which reflect the last statutory amendments that impact Parts A and A-1 of EPCA.

² For editorial reasons, upon codification in the U.S. Code, Part B was redesignated Part A.

conservation standards (42 U.S.C. 6295), and the authority to require information and reports from manufacturers (42 U.S.C. 6296).

The Federal testing requirements consist of test procedures that manufacturers of covered products must use as the basis for: (1) certifying to DOE that their products comply with the applicable energy conservation standards adopted pursuant to EPCA (42 U.S.C. 6295(s)), and (2) making other representations about the efficiency of those consumer products (42 U.S.C. 6293(c)). Similarly, DOE must use these test procedures to determine whether the products comply with relevant standards promulgated under EPCA. (42 U.S.C. 6295(s))

DOE is conducting this rulemaking to address a single specific issue and make minor corrections to the current test procedures that are required for certification of compliance with applicable energy conservation standards. This rulemaking does not satisfy the 7-year lookback requirement prescribed by EPCA.

B. Background

DOE's currently applicable test procedure for dishwashers is prescribed in the Code of Federal Regulations ("CFR") at 10 CFR part 430, subpart B, appendix C1 ("appendix C1"). Appendix C1 includes provisions for determining estimated annual energy use and per-cycle water consumption, among other metrics, and is currently required to demonstrate compliance with the energy conservation standards for dishwashers prescribed at 10 CFR 430.32(f). Section 2.10 of the currently applicable appendix C1 specifies the detergent type and dosage that must be used for testing. Specifically, section 2.10 specifies that Cascade with the Grease Fighting Power of Dawn must be used, and detergent dosage must be calculated based on the prewash (if any) and main wash fill water volumes. However, Cascade with the Grease Fighting Power of

Dawn has been discontinued and has been replaced on the market with Cascade Complete Powder formulation.

On July 22, 2022, DOE published a final rule that amended the certification provisions for dishwashers (“July 2022 Certification Final Rule”), among other products. 87 FR 43952. In the July 2022 Certification Final Rule, DOE noted that, given that the then-currently specified Cascade with the Grease Fighting Power of Dawn detergent was no longer available on the market, DOE expected that manufacturers may need to (or already had to) switch to the new Cascade Complete Powder formulation to conduct testing according to the currently applicable appendix C1. *Id.* at 87 FR 43969. The July 2022 Certification Final Rule amended the dishwasher certification provisions to require that manufacturers indicate whether Cascade Complete Powder detergent was used in lieu of Cascade with the Grease Fighting Power of Dawn to conduct testing according to the currently applicable appendix C1. *Id.* at 87 FR 43969–43970. DOE stated that it was establishing this additional reporting requirement to ensure that any assessment or enforcement testing pursuant to 10 CFR 429.104 and 429.110, respectively, would be performed using the same detergent used by the manufacturer for certifying compliance with the energy conservation standards. *Id.*

In a final rule published on January 18, 2023, DOE amended the test procedures in appendix C1 (“January 2023 TP Final Rule”) to specify that Cascade Complete Powder detergent may alternately be used for testing dishwashers in conjunction with a new detergent dosing requirement that is based on the number of place settings,³ among several other updates.

³ As amended by the January 2023 TP Final Rule, section 2.5 of appendix C1 specifies that if the detergent specified in section 2.10 of AHAM DW-1-2020 (*i.e.*, Cascade Complete Powder) is used for testing, then the dosage requirements specified in section 2.10 of AHAM DW-1-2020 must be used. Section 2.10 of AHAM DW-1-2020 specifies using half the quantity of detergent that is specified in section 4.1 of AHAM DW-2-2020. Section 4.1 of AHAM DW-2-2020 specifies the detergent dosage as 1.8 grams per place setting in the main compartment of the detergent dispenser and 1.8 grams per place setting in the prewash compartment of the detergent dispenser or other location.

88 FR 3234, 3247–3248. DOE stated in the January 2023 TP Final Rule that permitting the optional use of the new detergent and dosing specified in the Association of Home Appliance Manufacturers (“AHAM”) standard, AHAM DW–1–2020, “Uniform Test Method for Measuring the Energy Consumption of Dishwashers,” would avoid the need for manufacturers to request test procedure waivers, given the lack of availability of the current detergent. *Id.* at 88 FR 3247. DOE also stated that by maintaining the use of the current detergent and dosing requirements, manufacturers would not be required to re-test currently certified dishwashers. *Id.* The effective date of amended appendix C1 was February 17, 2023, and the amended appendix C1 will be mandatory for product testing starting July 17, 2023.

C. Deviation from Appendix A

In accordance with section 3(a) of 10 CFR part 430, subpart C, appendix A (“appendix A”), DOE notes that it is deviating from the provision in appendix A regarding the early assessment process in a test procedure rulemaking. Section 8(a) of appendix A states that DOE will follow an early assessment process similar to DOE's consideration of amended energy conservation standards and publish a notice in the *Federal Register* whenever DOE is considering initiation of a rulemaking to amend a test procedure. DOE is conducting this rulemaking to address a single specific issue rather than comply with the 7-year lookback requirement prescribed by EPCA. Furthermore, this proposal seeks to prevent manufacturers from needing to re-test and re-certify certain existing models after July 17, 2023. For these reasons, DOE finds it necessary and appropriate to deviate from the provision in appendix A regarding the early assessment process.

II. Discussion of Proposed Amendments

A. Appendix C1 Amendments

While the July 2022 Certification Final Rule amended the dishwasher certification provisions to require that manufacturers indicate whether Cascade Complete Powder detergent was used in lieu of Cascade with the Grease Fighting Power of Dawn to conduct testing according to the currently applicable appendix C1 (87 FR 43952, 43969–43970), it did not explicitly permit the use of Cascade Complete Powder detergent formulation with the dosage requirements specified in the currently applicable appendix C1 for units certified before July 17, 2023 (*i.e.*, the date on which testing according to the amended appendix C1 will be mandatory). Section 2.5 of the amended appendix C1 allows the use of Cascade with the Grease Fighting Power of Dawn detergent only with the dosage requirements of the currently applicable appendix C1 (*i.e.*, based on fill water volumes), or Cascade Complete Powder detergent only with the new detergent dosing requirement (*i.e.*, based on number of place settings). However, in specifying the new detergent dosing requirement for Cascade Complete Powder in appendix C1 in the January 2023 TP Final Rule, DOE did not intend to require manufacturers who have already certified dishwashers using the new Cascade Complete Powder in conjunction with the currently applicable detergent dosing requirement to re-test and re-certify using the new detergent dosing requirement.

DOE is therefore proposing in this NOPR to amend section 2.5 of appendix C1 to explicitly allow the use of Cascade Complete Powder detergent with either the dosage requirements specified in the currently applicable appendix C1 (*i.e.*, based on fill water volumes) or the amended appendix C1 (*i.e.*, based on number of place settings). This proposal seeks to prevent manufacturers that have used, or intend to use until July 17, 2023, Cascade Complete

Powder detergent with the currently applicable detergent dosing based on fill water volumes rather than number of place settings from needing to re-test and re-certify.

DOE requests feedback on its proposal to amend appendix C1 to explicitly allow the use of Cascade Complete Powder detergent with either the currently applicable dosage requirements based on fill water volumes, as specified in section 2.5.1 of appendix C1 as amended, or the new dosage requirements based on number of place settings, as specified in section 2.5 of appendix C1 as amended, until July 17, 2023.

B. Certification Reporting Provisions for Dishwashers

In conjunction with the proposed amendment to explicitly allow the use of the new Cascade Complete Powder detergent with the dosage method in the currently applicable appendix C1, DOE proposes to specify the applicable dates for each detergent formulation and dosing combination through instructions specified in the certification reporting provisions at 10 CFR 429.19(b)(3). DOE proposes to amend 10 CFR 429.19(b)(3)(vi) to specify in a new subsection (A) that before July 17, 2023, Cascade Complete Powder detergent may be used as the basis for certification in conjunction with either detergent dosing methods (*i.e.*, the currently applicable detergent dosing requirement based on fill water volumes, or the new detergent dosing requirement based on number of place settings); and Cascade with the Grease Fighting Power of Dawn detergent may be used as the basis for certification only in conjunction with the currently applicable detergent dosing based on fill water volumes.

DOE proposes to further specify in a new subsection (B) to 10 CFR 429.19(b)(3)(vi) that beginning July 17, 2023, Cascade Complete Powder detergent may be used as the basis for certification of newly certified basic models only in conjunction with the new detergent dosing method based on number of place settings; and Cascade with the Grease Fighting Power of

Dawn detergent may be used as the basis for certification only in conjunction with the currently applicable detergent dosing based on fill water volumes. DOE also proposes to clarify that manufacturers may maintain basic model certifications made prior to July 17, 2023.

DOE seeks feedback on its proposal to add two subsections to the certification reporting provisions that specify the date when each detergent formulation and dosage method is applicable.

C. Enforcement Testing Provision for Dishwashers

In addition to amending appendix C1 to specify the detergent formulation and dosage combinations that would be applicable until July 17, 2023, and including instructions to the reporting requirements at 10 CFR 429.19(b)(3), DOE is also proposing a product-specific enforcement provision for dishwashers. This proposal would provide greater certainty regarding how DOE would conduct any enforcement testing for any dishwashers certified in accordance with the currently applicable test procedure using the new Cascade Complete Powder detergent, as implicitly permitted by the July 2022 Certification Final Rule. Specifically, DOE is proposing to add a product-specific enforcement provision at 10 CFR 429.134(z)(2) explicitly specifying that DOE would perform any enforcement testing using the detergent dosing requirement that was used by the manufacturer for certifying compliance with the energy conservation standards. DOE notes that under the requirements specified at 10 CFR 429.106(b), DOE may request any information relevant to determining compliance and DOE would use this authority to request detergent dosage information from manufacturers, if required for the purposes of conducting enforcement testing.

DOE requests comments on its proposal to add a product-specific enforcement requirement for dishwashers to specify that DOE would perform any enforcement testing using

the detergent dosing requirement that was used by the manufacturer for certifying compliance with the energy conservation standards, in accordance with the applicable test procedure and certification reporting requirements.

III. Procedural Issues and Regulatory Review

A. Review Under Executive Orders 12866 and 13563

Executive Order (“E.O.”) 12866, “Regulatory Planning and Review,” as supplemented and reaffirmed by E.O. 13563, “Improving Regulation and Regulatory Review,” 76 FR 3821 (Jan. 21, 2011), requires agencies, to the extent permitted by law, to (1) propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, to the extent practicable, the costs of cumulative regulations, among other things; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity); (4) specify performance objectives wherever feasible, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public. DOE emphasizes as well that E.O. 13563 requires agencies to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible. In its guidance, the Office of Information and Regulatory Affairs (“OIRA”) in the Office of Management and Budget (“OMB”) has emphasized that such techniques may include identifying changing future

compliance costs that might result from technological innovation or anticipated behavioral changes. For the reasons stated in the preamble, this proposed regulatory action is consistent with these principles.

Section 6(a) of E.O. 12866 also requires agencies to submit “significant regulatory actions” to OIRA for review. OIRA has determined that this proposed regulatory action does not constitute a “significant regulatory action” under section 3(f) of E.O. 12866. Accordingly, this action was not submitted to OIRA for review under E.O. 12866.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis (“IRFA”) for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by Executive Order 13272, “Proper Consideration of Small Entities in Agency Rulemaking,” 67 FR 53461 (Aug. 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the DOE rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel’s website: www.energy.gov/gc/office-general-counsel.

This NOPR proposes an update to the amended appendix C1 to remove uncertainty about dishwashers that may be currently certified under the currently applicable appendix C1 using the new detergent (as permitted by the July 2022 Certification Final Rule), and to prevent such dishwashers from having to be re-tested and re-certified after the February 17, 2023, effective date of the January 2023 TP Final Rule. The proposed amendments in this NOPR do not affect the scope or substance of the currently applicable or amended test procedure for dishwashers.

Therefore, DOE initially concludes that the impacts of the amendments proposed in this NOPR would not have a “significant economic impact on a substantial number of small entities,” and that the preparation of an IRFA is not warranted. DOE will transmit the certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act of 1995

Manufacturers of dishwashers must certify to DOE that their products comply with any applicable energy conservation standards. To certify compliance, manufacturers must first obtain test data for their products according to the DOE test procedures, including any amendments adopted for those test procedures. DOE has established regulations for the certification and recordkeeping requirements for all covered consumer products and commercial equipment, including dishwashers. (*See generally* 10 CFR part 429.) The collection-of-information requirement for the certification and recordkeeping is subject to review and approval by OMB under the Paperwork Reduction Act (“PRA”). This requirement has been approved by OMB under OMB control number 1910-1400. Public reporting burden for the certification is estimated to average 35 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

DOE is not proposing to amend the certification or reporting requirements for dishwashers.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information

subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

D. Review Under the National Environmental Policy Act of 1969

In this NOPR, DOE proposes to add explicit enumeration of currently allowable testing options to the test procedure, certification reporting instructions, and a product-specific enforcement provision that would specify how DOE would conduct any enforcement testing of certain dishwasher models. DOE has determined that this proposed rule falls into a class of actions that are categorically excluded from review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and DOE's implementing regulations at 10 CFR part 1021. Specifically, DOE has determined that adopting test procedures for measuring energy efficiency of consumer products and industrial equipment is consistent with activities identified in 10 CFR part 1021, appendix A to subpart D, A5 and A6. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

E. Review Under Executive Order 13132

Executive Order 13132, "Federalism," 64 FR 43255 (Aug. 4, 1999) imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The Executive order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations.

65 FR 13735. DOE has examined this proposed rule and has determined that it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of this proposed rule. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6297(d)) No further action is required by Executive Order 13132.

F. Review Under Executive Order 12988

Regarding the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, “Civil Justice Reform,” 61 FR 4729 (Feb. 7, 1996), imposes on Federal agencies the general duty to adhere to the following requirements: (1) eliminate drafting errors and ambiguity, (2) write regulations to minimize litigation, (3) provide a clear legal standard for affected conduct rather than a general standard, and (4) promote simplification and burden reduction. Section 3(b) of Executive Order 12988 specifically requires that executive agencies make every reasonable effort to ensure that the regulation (1) clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires executive agencies to review regulations in light of applicable standards in sections 3(a) and 3(b) to determine whether they are met or it is unreasonable to meet one or

more of them. DOE has completed the required review and determined that, to the extent permitted by law, the proposed rule meets the relevant standards of Executive Order 12988.

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (“UMRA”) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments, and the private sector. Pub. L. 104-4, sec. 201 (codified at 2 U.S.C. 1531). For a proposed regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of \$100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a proposed “significant intergovernmental mandate,” and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect small governments. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820; also available at www.energy.gov/gc/office-general-counsel. DOE examined this proposed rule according to UMRA and its statement of policy and determined that the rule contains neither an intergovernmental mandate, nor a mandate that may result in the expenditure of \$100 million or more in any year, so these requirements do not apply.

H. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105-277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This proposed rule would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Review Under Executive Order 12630

DOE has determined, under Executive Order 12630, “Governmental Actions and Interference with Constitutionally Protected Property Rights” 53 FR 8859 (March 18, 1988), that this proposed regulation would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

J. Review Under Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516 note) provides for agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB’s guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE’s guidelines were published at 67 FR 62446 (Oct. 7, 2002). Pursuant to OMB Memorandum M-19-15, Improving Implementation of the Information Quality Act (April 24, 2019), DOE published updated guidelines which are available at www.energy.gov/sites/prod/files/2019/12/f70/DOE%20Final%20Updated%20IQA%20Guidelines%20Dec%202019.pdf. DOE has reviewed this proposed rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,” 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OMB, a Statement of Energy Effects for any proposed significant energy action. A “significant energy action” is defined as any action by an agency that promulgated or is expected to lead to promulgation of a final rule, and that (1) is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (3) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

The proposed regulatory action to amend an explicit enumeration of currently allowable testing options to the test procedure, certification reporting instructions, and a product-specific enforcement provision that would specify how DOE would conduct any enforcement testing of certain dishwasher models is not a significant regulatory action under Executive Order 12866. Moreover, it would not have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as a significant energy action by the Administrator of OIRA. Therefore, it is not a significant energy action, and, accordingly, DOE has not prepared a Statement of Energy Effects.

The following standard included in the proposed regulatory text was previously approved for incorporation by reference for the locations in which it appears in this proposed rule: AHAM DW-1-2020.

IV. Public Participation

DOE will accept comments, data, and information regarding this proposed rule no later than the date provided in the **DATES** section at the beginning of this proposed rule. Interested parties may submit comments using any of the methods described in the **ADDRESSES** section at the beginning of this document.

Although DOE welcomes comments on any aspect of this proposal, DOE is particularly interested in receiving comments and views of interested parties concerning the following issues:

- (1) DOE requests feedback on its proposal to amend appendix C1 to explicitly allow the use of Cascade Complete Powder detergent with either the currently applicable dosage requirements based on fill water volumes, as specified in section 2.5.1 of appendix C1 as amended, or the new dosage requirements based on number of place settings, as specified in section 2.5 of appendix C1 as amended, until July 17, 2023.
- (2) DOE seeks feedback on its proposal to add two subsections to the certification reporting provisions that specify the date when each detergent formulation and dosage method is applicable.
- (3) DOE requests comments on its proposal to add a product-specific enforcement requirement for dishwashers to specify that DOE would perform any enforcement testing using the detergent dosing requirement that was used by the manufacturer for certifying compliance with the energy conservation standards, in accordance with the applicable test procedure and certification reporting requirements.

Submitting comments via www.regulations.gov. The www.regulations.gov webpage will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be

publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to *www.regulations.gov* information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (“CBI”)). Comments submitted through *www.regulations.gov* cannot be claimed as CBI. Comments received through the website will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

DOE processes submissions made through *www.regulations.gov* before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that *www.regulations.gov* provides after you have successfully uploaded your comment.

Submitting comments via email, hand delivery/courier, or postal mail. Comments and documents submitted via email, hand delivery/courier, or postal mail also will be posted to

www.regulations.gov. If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information on a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via postal mail or hand delivery/courier, please provide all items on a CD, if feasible, in which case it is not necessary to submit printed copies. No faxes will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, written in English and free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. Pursuant 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 via email two well-marked copies: one copy of the document marked confidential including all the information believed to be confidential, and one copy of the document marked non-confidential 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.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

V. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this Notice of proposed rulemaking and request for comment.

List of Subjects

10 CFR Part 429

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Imports, Intergovernmental relations, Reporting and recordkeeping requirements, Small businesses.

10 CFR Part 430

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Imports, Intergovernmental relations, Small businesses.

Signing Authority

This document of the Department of Energy was signed on March 14, 2023, by Francisco Alejandro Moreno, Acting Assistant Secretary for Energy Efficiency and Renewable Energy, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the *Federal Register*.

Signed in Washington, DC, on March 14, 2023.

FRANCISCO MORENO
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Digitally signed by
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Date: 2023.03.14
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Francisco Alejandro Moreno
Acting Assistant Secretary for Energy Efficiency and Renewable Energy
U.S. Department of Energy

For the reasons stated in the preamble, DOE proposes to amend parts 429 and 430 of chapter II of title 10, Code of Federal Regulations as set forth below:

**PART 429 – CERTIFICATION, COMPLIANCE, AND ENFORCEMENT FOR
CONSUMER PRODUCTS AND COMMERCIAL AND INDUSTRIAL EQUIPMENT**

1. The authority citation for part 429 continues to read as follows:

Authority: 42 U.S.C. 6291–6317, 28 U.S.C. 2461 note.

2. Section 429.19(b)(3)(vi) is revised to read as follows:

§429.19 Dishwashers.

* * * * *

(b) * * *

(3) * * *

(vi) Indication of whether Cascade Complete Powder or Cascade with the Grease Fighting Power of Dawn was used as the detergent formulation. When certifying dishwashers, other than water re-use dishwashers, according to appendix C1 to subpart B of part 430 of this chapter:

(A) Before July 17, 2023, Cascade Complete Powder detergent may be used as the basis for certification in conjunction with the detergent dosing methods specified in either section 2.5.2.1.1 or section 2.5.2.1.2 of appendix C1 (as amended on February 17, 2023). Cascade with the Grease Fighting Power of Dawn detergent may be used as the basis for certification only in

conjunction with the detergent dosing specified in section 2.5.2.1.1 of appendix C1 (as amended on February 17, 2023).

(B) Beginning July 17, 2023, Cascade Complete Powder detergent may be used as the basis for certification of newly certified basic models only in conjunction with the detergent dosing method specified in section 2.5.2.1.2 of appendix C1 (as amended on February 17, 2023). Cascade with the Grease Fighting Power of Dawn detergent may be used as the basis for certification only in conjunction with the detergent dosing specified in section 2.5.2.1.1 of appendix C1 (as amended on February 17, 2023). Manufacturers may maintain existing basic model certifications made prior to July 17, 2023, consistent with the provisions of §429.19(b)(3)(vi)(A).

3. Amend §429.134 by adding paragraph (z)(2) to read as follows:

§429.134 Product-specific enforcement provisions.

* * * * *

(z) * * *

(2) *Detergent Dosing Requirement.* For any dishwasher basic model certified in accordance with the test procedure at appendix C1 to subpart B of part 430 of this chapter, DOE will conduct enforcement testing using the detergent dosing requirement that was used by the manufacturer as the basis for certifying compliance with the applicable energy conservation standard, in accordance with the applicable test procedure and certification reporting requirements.

PART 430 -- ENERGY CONSERVATION PROGRAM FOR CONSUMER

PRODUCTS

4. The authority citation for part 430 continues to read as follows:

Authority: 42 U.S.C. 6291-6309; 28 U.S.C. 2461 note.

5. Amend appendix C1 to subpart B of part 430 by revising the appendix introductory note and section 2.5 to read as follows:

Appendix C1 to Subpart B of Part 430—Uniform Test Method for Measuring the Energy Consumption of Dishwashers

NOTE: Before [*date 180 days after publication of the final rule*], manufacturers must use the results of testing under this appendix as codified on [*date 30 days after publication of the final rule*] or February 17, 2023, to determine compliance with the relevant standard from §430.32(f)(1) as it appeared in the January 1, 2023, edition of 10 CFR parts 200–499. Beginning [*date 180 days after publication of the final rule*], manufacturers must use the results of testing under this appendix to determine compliance with the relevant standard from §430.32(f)(1) as it appeared in the January 1, 2023, edition of 10 CFR parts 200–499. Manufacturers must use the results of testing under appendix C2 to determine compliance with any amended standards for dishwashers provided in 10 CFR 430.32(f)(1) that are published after January 1, 2023. Any representations related to energy or water consumption of dishwashers must be made in accordance with the appropriate appendix that applies (*i.e.*, appendix C1 or appendix C2) when determining compliance with the relevant standard. Manufacturers may also use appendix C2 to certify compliance with any amended standards prior to the applicable compliance date for those standards.

10 CFR 429.19(b)(3) provides instructions regarding the combination of detergent and detergent dosing, specified in section 2.5 of this appendix, used for certification.

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2.5 Detergent.

2.5.1 Detergent Formulation. Either Cascade with the Grease Fighting Power of Dawn or Cascade Complete Powder may be used.

2.5.2 Detergent Dosage.

2.5.2.1 Dosage for any dishwasher other than water re-use system dishwashers.

If Cascade with the Grease Fighting Power of Dawn detergent is used, the detergent dosing specified in section 2.5.2.1.1 of this appendix must be used.

If Cascade Complete Powder detergent is used, consult the introductory note to this appendix regarding use of the detergent dosing specified in either section 2.5.2.1.1 or section 2.5.2.1.2 of this appendix.

2.5.2.1.1 Dosage based on fill water volumes. Determine detergent dosage as follows:

Prewash Detergent Dosing. If the cycle setting for the test cycle includes prewash, determine the quantity of dry prewash detergent, D_{pw} , in grams (g) that results in 0.25 percent concentration by mass in the prewash fill water as:

$$D_{pw} = V_{pw} \times \rho \times k \times 0.25/100$$

where,

V_{pw} = the prewash fill volume of water in gallons,

ρ = water density = 8.343 pounds (lb)/gallon for dishwashers to be tested at a nominal inlet water temperature of 50 °F (10 °C), 8.250 lb/gallon for dishwashers to be tested at a nominal inlet water temperature of 120 °F (49 °C), and 8.205 lb/gallon for dishwashers to be tested at a nominal inlet water temperature of 140 °F (60 °C), and

k = conversion factor from lb to g = 453.6 g/lb.

Main Wash Detergent Dosing. Determine the quantity of dry main wash detergent, D_{mw} , in grams (g) that results in 0.25 percent concentration by mass in the main wash fill water as:

$$D_{mw} = V_{mw} \times \rho \times k \times 0.25/100$$

where,

V_{mw} = the main wash fill volume of water in gallons, and

ρ and k are as defined above.

For dishwashers that do not have a direct water line, V_{mw} is equal to the manufacturer reported water capacity used in the main wash stage of the test cycle.

2.5.2.1.2 Dosage based on number of place settings. Determine detergent dosage as specified in sections 2.10 and 2.10.1 of AHAM DW-1-2020.

2.5.2.2 Dosage for water re-use system dishwashers. Determine detergent dosage as specified in section 2.10.2 of AHAM DW-1-2020.

2.5.3 Detergent Placement.

Prewash and main wash detergent must be placed as specified in sections 2.10 and 2.10.1 of AHAM DW-1-2020. For any dishwasher that does not have a main wash detergent compartment and the manufacturer does not recommend a location to place the main wash detergent, place the main wash detergent directly into the dishwasher chamber.

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