

[6450-01-P]

**DEPARTMENT OF ENERGY**

[Case Number 2020-008; EERE-2020-BT-WAV-0024]

**Energy Conservation Program: Notice of Petition for Waiver of CNA International, Inc.  
from the Department of Energy Dishwashers Test Procedure and Notice of Grant of  
Interim Waiver**

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

**ACTION:** Notice of petition for waiver and grant of an interim waiver; request for comments.

**SUMMARY:** This notice announces receipt of and publishes a petition for waiver and interim waiver from CNA International, Inc. (“CNA”), which seeks a waiver for a specified dishwasher basic model from the U.S. Department of Energy (“DOE”) test procedure used for determining the energy and water consumption of dishwashers. DOE also gives notice of an Interim Waiver Order that requires CNA to test and rate the specified dishwasher basic model in accordance with the alternate test procedure set forth in the Interim Waiver Order. DOE solicits comments, data, and information concerning CNA’s petition and its suggested alternate test procedure so as to inform DOE’s final decision on CNA’s waiver request.

**DATES:** The Interim Waiver Order is effective on [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. Written comments and information are requested and will be accepted on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**ADDRESSES:** Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at <http://www.regulations.gov>. Alternatively, interested persons may submit comments, identified by case number “2020-008”, and Docket number “EERE-2020-BT-WAV-0024,” by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *E-mail:* [CNA2020WAV0024@ee.doe.gov](mailto:CNA2020WAV0024@ee.doe.gov). Include Case No. 2020-008 in the subject line of the message.
- *Postal Mail:* Appliance and Equipment Standards Program, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, Mailstop EE-5B, Petition for Waiver Case No. 2020-008, 1000 Independence Avenue, SW., Washington, DC 20585-0121. 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., 6<sup>th</sup> 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 telefacsimilies (“faxes”) will be accepted. For detailed instructions on submitting comments and additional information on this process, see the “**SUPPLEMENTARY INFORMATION**” section of this document.

*Docket:* The docket, which includes *Federal Register* notices, comments, and other supporting documents/materials, is available for review at <http://www.regulations.gov>. All documents in the docket are listed in the <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.

The docket web page can be found at <http://www.regulations.gov/docket?D=EERE-2020-BT-WAV-0024>. The docket web page contains instruction on how to access all documents, including public comments, in the docket. See the “**SUPPLEMENTARY INFORMATION**” section for information on how to submit comments through <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:**

Ms. Lucy deButts, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, Mailstop EE-5B, 1000 Independence Avenue, SW., Washington, DC 20585-0121. E-mail: [AS\\_Waiver\\_Request@ee.doe.gov](mailto:AS_Waiver_Request@ee.doe.gov).

Ms. Elizabeth Kohl, 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) 586-7796. E-mail: [Elizabeth.Kohl@hq.doe.gov](mailto:Elizabeth.Kohl@hq.doe.gov).

**SUPPLEMENTARY INFORMATION:**

DOE is publishing CNA's petition for waiver in its entirety, pursuant to 10 CFR 430.27(b)(1)(iv).<sup>1</sup> DOE invites all interested parties to submit in writing by [**INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER***], comments and information on all aspects of the petition, including the alternate test procedure. 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 Sam Walsh, Harris, Wiltshire & Grannis LLP, 1919 M Street NW, Eighth Floor, Washington, DC 20036.

*Submitting comments via <http://www.regulations.gov>. The <http://www.regulations.gov> web page 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. If this instruction is followed, persons viewing comments will see only first

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<sup>1</sup> The petition did not identify any of the information contained therein as confidential business information.

and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to <http://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 <http://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 <http://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 <http://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 <http://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. Faxes will not 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.* 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 via email, postal mail, or hand delivery/courier 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. Submit these documents via email or on a CD, if feasible.

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).

## Signing Authority

This document of the Department of Energy was signed on August 31, 2020, by Alexander N. Fitzsimmons, Deputy Assistant Secretary for Energy Efficiency 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 August 31, 2020.

**X** Alexander N. Fitzsimmons

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Signed by: ALEXANDER FITZSIMMONS  
Alexander N. Fitzsimmons  
Deputy Assistant Secretary  
for Energy Efficiency  
Energy Efficiency and Renewable Energy



## Case Number 2020-008

### Interim Waiver Order

#### I. Background and Authority

The Energy Policy and Conservation Act, as amended (“EPCA”),<sup>2</sup> authorizes the U.S. Department of Energy (“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<sup>3</sup> of EPCA. Public Law 94-163 (42 U.S.C. 6291-6309, as codified), established the Energy Conservation Program for Consumer Products Other Than Automobiles, which sets forth a variety of provisions designed to improve energy efficiency for certain types of consumer products. These products include dishwashers, the subject of this Interim Waiver Order. (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 include definitions (42 U.S.C. 6291), test procedures (42 U.S.C. 6293), labeling provisions (42 U.S.C. 6294), energy conservation standards (42 U.S.C. 6295), and the authority to require information and reports from manufacturers (42 U.S.C. 6296).

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<sup>2</sup> All references to EPCA in this document refer to the statute as amended through America’s Water Infrastructure Act of 2018, Public Law 115-270 (Oct. 23, 2018).

<sup>3</sup> For editorial reasons, upon codification in the U.S. Code, Part B was redesignated as Part A.

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 representations about the efficiency of that product (42 U.S.C. 6293(c)). Similarly, DOE must use these test procedures to determine whether the covered product complies with relevant standards promulgated under EPCA. (42 U.S.C. 6295(s))

Under 42 U.S.C. 6293, EPCA sets forth the criteria and procedures DOE is required to follow when prescribing or amending test procedures for covered products. EPCA requires that any test procedures prescribed or amended under this section must be reasonably designed to produce test results which reflect the energy efficiency, energy use or estimated annual operating cost of a covered product during a representative average use cycle or period of use and requires that test procedures not be unduly burdensome to conduct. (42 U.S.C. 6293(b)(3)) The test procedure for dishwashers is contained in the Code of Federal Regulations (“CFR”) at 10 CFR part 430, subpart B, appendix C1, “Uniform Test Method for Measuring the Energy Consumption of Dishwashers” (“Appendix C1”).

Under 10 CFR 430.27, any interested person may submit a petition for waiver from DOE’s test procedure requirements. DOE will grant a waiver from the test procedure requirements if DOE determines either that the basic model for which the waiver was requested contains a design characteristic that prevents testing of the basic model according to the prescribed test procedures, or that the prescribed test procedures 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(f)(2). A petitioner must include in its petition any alternate test procedures known to the petitioner to evaluate the performance of the product type in a manner representative of the energy and/or water consumption characteristics of the basic model. 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. 10 CFR 430.27(l) As soon thereafter as practicable, DOE will publish in the *Federal Register* a final rule to that effect. *Id.*

The waiver process also provides that DOE may grant an interim waiver if it appears likely that the underlying petition for waiver will be granted and/or if DOE determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the underlying petition for waiver. 10 CFR 430.27(e)(2). Within one year of issuance of an interim waiver, DOE will either: (i) publish in the *Federal Register* a determination on the petition for waiver; or (ii) publish in the *Federal Register* a new or amended test procedure that addresses the issues presented in the waiver. 10 CFR 430.27(h)(1).

When DOE amends the test procedure to address the issues presented in a waiver, the waiver will automatically terminate on the date on which use of that test procedure is required to demonstrate compliance. 10 CFR 430.27(h)(2).

## II. CNA's Petition for Waiver and Interim Waiver

On June 30, 2020, CNA filed a petition for waiver and interim waiver from the test procedure for dishwashers set forth at Appendix C1.<sup>4</sup> CNA is seeking a waiver for a non-soil-sensing, compact (countertop) dishwasher because CNA asserts that the product contains a design characteristic that prevents testing according to the prescribed test procedure. In its petition for waiver, CNA stated that the subject dishwasher does not have a water hookup but that water is provided by manually pouring 5 liters of tap water into a built-in tank. CNA has requested DOE waive sections of the dishwasher test procedure requiring water inflow and water pressure criteria based on a water hookup that allows automatic water inflow into the machine during the test cycle. Instead, CNA has suggested an alternate test procedure in which the water tank is manually filled before the test is run and water consumption is stipulated.

CNA also requests an interim waiver from the existing DOE test procedure. DOE will grant an interim waiver if it appears likely that the petition for waiver will be granted, and/or if DOE determines that it would be desirable for public policy reasons to grant immediate relief pending a determination of the petition for waiver. *See* 10 CFR 430.27(e)(2).

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<sup>4</sup> The specific basic model for which the petition applies is factory basic model X1 and CNA model MCSCD3W under the Magic Chef brand name. This basic model name was provided by CNA in its June 30, 2020 petition.

Based on the assertions in the petition, the manual water fill characteristic of the subject basic model prevents testing of the basic model according to the prescribed test procedure absent an interim waiver.

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

EPCA requires that manufacturers use DOE test procedures when making representations about the energy consumption and energy consumption costs of covered products. (42 U.S.C. 6293(c)) Consistency is important when making representations about the energy efficiency of covered products, including when demonstrating compliance with applicable DOE energy conservation standards. Pursuant to 10 CFR 430.27, and after consideration of public comments on the petition, DOE may establish in a subsequent Decision and Order an alternate test procedure for the basic models addressed by the Interim Waiver Order.

CNA seeks to use an alternate test procedure to test and rate specific dishwasher basic model. In its petition for waiver, CNA has suggested the following alternate test procedure:

- Update the existing water pressure requirements in section 2.4 of Appendix C1 to state that, “For manually filled dishwashers that do not have a direct water line, these water pressure conditions do not apply because the water will be added manually according to section 2.6.2.1”;
- Include a new subsection 2.6.2.1 following section 2.6.2 of Appendix C1, which states, “For compact dishwashers that do not have a direct water line, manually fill the built-in water reservoir to the full 5-liter reservoir capacity stated by the

manufacturer, using water at a temperature in accordance with section 2.3.3 of this appendix”;

- Update the main wash detergent dosing requirements specified in section 2.10.2 of Appendix C1 as, “For manually filled dishwashers that do not have a direct water line, the  $V_{mw}$  is equal to 0.396 gallons (or 1.5 liters), which is the main wash fill volume”;
- Specify that the water meter requirements and water pressure gauge requirements in sections 3.3 and 3.4 of Appendix C1, respectively, are not applicable to this dishwasher basic model; and,
- Update the water consumption calculation for non-soil-sensing dishwashers in section 5.4.1 of Appendix C1 to state, “For manually filled dishwashers that do not have a direct water line, the water consumption is equal to 4.8 liters, which is the volume of water used in the test cycle.”

#### **IV. Interim Waiver Order**

DOE has reviewed CNA’s application for an interim waiver and the alternate test procedure requested by CNA. Based on this review, the alternate test procedure appears to allow for the accurate measurement of the energy and water consumption of the specified basic model, while alleviating the testing problems associated with CNA’s implementation of dishwasher testing for this basic model. Consequently, DOE has determined that CNA’s petition for waiver likely will be granted. Furthermore, DOE has determined that it is desirable for public policy reasons to grant CNA immediate relief pending a determination of the petition for waiver.

For the reasons stated, it is **ORDERED** that:

(1) CNA must test and rate the following dishwasher basic model with the alternate test procedure set forth in paragraph (2).

<b>Brand</b>	<b>Basic Model</b>
Magic Chef	MCSCD3W

(2) The alternate test procedure for the CNA basic model identified in paragraph (1) of this Interim Waiver Order is the test procedure for dishwashers prescribed by DOE at 10 CFR part 430, subpart B, appendix C1, except that the requirements for automatic filling of water into the dishwasher tub are not applicable and instead, specific requirements for manually filling the water are specified, as detailed below. All other requirements of Appendix C1 and DOE's regulations remain applicable.

In section 2.4, *Water pressure*, add at the end of the section:

For compact dishwashers that do not have a direct water line, these water pressure conditions do not apply because the water will be added manually according to section 2.6.2.1.

Following section 2.6.2, *Non-soil-sensing dishwashers to be tested at a nominal inlet temperature of 50 °F or 120 °F*, add section 2.6.2.1 to read:

2.6.2.1 For compact dishwashers that do not have a direct water line, manually fill the built-in water reservoir to the full 5-liter reservoir capacity stated by the manufacturer, using water at a temperature in accordance with section 2.3.3 of this appendix.

In section 2.9, *Preconditioning requirements*, add at the end of the section:

For compact dishwashers that do not have a direct water line, measurement of the prewash fill water volume,  $V_{pw}$ , if any, and measurement of the main wash fill water volume,  $V_{mw}$ , are not taken.

In section 2.10.2, *Main Wash Detergent Dosing*, add at the end of the section:

For compact dishwashers that do not have a direct water line, the  $V_{mw}$  is equal to 0.396 gallons (1.5 liters), which is the main wash fill volume.

In section 3.3, *Water meter*, add at the end of the section:

For compact dishwashers that do not have a direct water line, these water meter conditions do not apply. Water is added manually pursuant to section 2.6.2.1 of this appendix.

In section 3.4, *Water pressure gauge*, add at the end of the section:

For compact dishwashers that do not have a direct water line, these water pressure gauge conditions do not apply. Water is added manually pursuant to section 2.6.2.1 of this appendix.



In section 4.1.3, *Water consumption*, add at the end of the section:

For compact dishwashers that do not have a direct water line, these water consumption measurement requirements do not apply. Water is added manually pursuant to section 2.6.2.1 of this appendix.

In section 5.4.1, *Water consumption for non-soil-sensing electric dishwashers using electrically heated, gas-heated, or oil-heated water*, add at the end of the section:

For compact dishwashers that do not have a direct water line, the water consumption is equal to 4.8 liters, which is the volume of water used in the test cycle.

(3) *Representations*. CNA may not make representations about the energy and water use of a basic model listed in paragraph (1) for compliance, marketing, or other purposes unless that basic model has been tested in accordance with the provisions set forth in this alternate test procedure and such representations fairly disclose the results of such testing.

(4) This Interim Waiver Order shall remain in effect according to the provisions of 10 CFR 430.27.


(5) This Interim Waiver Order is issued on the condition that the statements, representations, and documents provided by CNA are valid. DOE may rescind or modify this waiver at any time if it determines the factual basis underlying the petition for the Interim Waiver Order is incorrect, or the results from the alternate test procedure are unrepresentative of the basic model's true energy consumption characteristics. 10 CFR 430.27(k)(1). Likewise, CNA may request that

DOE rescind or modify the Interim Waiver Order if CNA discovers an error in the information provided to DOE as part of its petition, determines that the interim waiver is no longer needed, or for other appropriate reasons. 10 CFR 430.27(k)(2).

(6) Issuance of this Interim Waiver Order does not release CNA from the applicable requirements set forth at 10 CFR part 429.

DOE makes decisions on waivers and interim waivers for only those basic models specifically set out in the petition, not future models that may be manufactured by the petitioner. CNA may submit a new or amended petition for waiver and request for grant of interim waiver, as appropriate, for additional basic models of dishwashers. Alternatively, if appropriate, CNA may request that DOE extend the scope of a waiver or an interim waiver to include additional basic models employing the same technology as the basic model(s) set forth in the original petition consistent with 10 CFR 430.27(g).

Signed in Washington, DC, on August 31, 2020.

 Alexander N. Fitzsimmons

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Signed by: ALEXANDER FITZSIMMONS  
Alexander N. Fitzsimmons  
Deputy Assistant Secretary  
for Energy Efficiency  
Energy Efficiency and Renewable Energy

**BEFORE THE  
UNITED STATES DEPARTMENT OF ENERGY  
WASHINGTON, D.C. 20585**

In the Matter of:

Energy Efficiency Program: Test Procedure for Residential Dishwashers

**Petition of CNA International, Inc. for Waiver and  
Interim Waiver of Test Procedure for Residential Dishwashers**

CNA International, Inc. (CNA) respectfully submits this Petition for Waiver and for Interim Waiver<sup>1</sup> of the Department of Energy (DOE or Department) test procedure for residential dishwashers. Specifically, CNA seeks a waiver for its very-small-capacity, highly compact, manually filled countertop residential dishwasher because the product contains design characteristics that prevent testing according to the prescribed test procedures. As a result, the current test procedure is not representative of consumers' use of the product or the product's energy and water consumption characteristics. As described below, CNA proposes an alternative test procedure for this dishwasher that will allow CNA to test the product and determine compliance in accordance with the Department's current energy conservation standards for residential dishwashers. CNA requests expedited treatment of the Petition for Waiver and Interim Waiver.

Based in Wood Dale, Illinois, CNA is a national appliance distribution company that supplies affordable, quality products to homes and small businesses across the United States. With

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<sup>1</sup> See 10 C.F.R. § 430.27 (petitions for waiver and interim waiver).

well-known brands including Magic Chef, Magic Chef Commercial, and Norpole, CNA markets its products through major retail stores and their websites and through commercial distributors across America.

**I. BASIC MODEL FOR WHICH A WAIVER IS REQUESTED**

The basic model for which a waiver is requested is factory basic model X1 and CNA model MCSCD3W. The product would be distributed in commerce under the Magic Chef brand name.

**II. NEED FOR THE REQUESTED WAIVER**

CNA's non-soil-sensing countertop dishwashers are highly beneficial products, with particular characteristics specifically designed to meet consumer needs in today's marketplace. Specifically, the dishwasher does not require a water hookup, but rather is filled manually by pouring 5 liters of tap water into a built-in tank. This allows for portability, ease of storage, and space-constrained dishwashing for residential consumers.<sup>2</sup>

CNA understands that the Department views its countertop dishwasher as a covered product for the purposes of the Department's energy conservation standards.<sup>3</sup> The currently applicable standards for dishwashers are divided into two product classes on the basis of capacity, in terms of the number of place settings, into standard-size (8 or more place settings) and compact dishwashers (fewer than 8 place settings).<sup>4</sup> The current test procedure for compact dishwashers is

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<sup>2</sup> To the best of CNA's knowledge, CNA is unable to identify any other manufacturers distributing residential dishwasher basic models in commerce in the United States that incorporate all of the design characteristics that are the subject of this petition.

<sup>3</sup> See 42 U.S.C. § 6292(a)(6); 10 C.F.R. § 430.2 (defining a dishwasher as a "cabinet-like appliance which with the aid of water and detergent, washes, rinses, and dries (when a drying process is included) dishware, glassware, eating utensils, and most cooking utensils by chemical, mechanical and/or electrical means and discharges to the plumbing drainage system").

<sup>4</sup> 10 C.F.R. § 430.32(f)(1). Under the current standard, "[c]ompact size dishwashers shall not exceed 222 kwh/year and 3.5 gallons per cycle." *Id.*

set forth at Appendix C1.<sup>5</sup>

CNA requires a waiver because design characteristics of its countertop dishwasher prevent testing of the product according to the prescribed test procedure. Specifically, CNA's countertop dishwasher does not have a direct-line fill hose and cannot be automatically filled with water. Rather, the product is designed to be filled manually by pouring 5 liters of tap water into a reservoir that is built into a machine. As directed by the manufacturer, the water temperature should be slightly below room temperature: 50°F - 68°F (10°C - 20°C). The dishwasher provides internal water heating to above 120°F during the normal cycle. A full dishwasher cycle uses approximately 4.7 to 4.8 liters of water—so the reservoir must be filled for each use. The full cycle includes a main wash stage that uses approximately 1.5 liters of water. The unit has a drain hose in the back so that the used water is drained into a sink. Because the unit is filled manually with water, it cannot be tested in accordance with sections of the test procedure requiring water inflow and water pressure criteria based on a water hookup that allows automatic water inflow into the machine during the test cycle. As described further below, CNA therefore requests a waiver of those aspects of the test procedure and proposes an alternative in which the water tank is manually filled before the test is run. CNA submits that procedure is representative of consumer use and, thus, representative of the product's true energy and water consumption characteristics.

### **III. PROPOSED ALTERNATE TEST PROCEDURE**

CNA proposes the following alternate test procedure to evaluate the performance of the basic model that is the subject of the waiver request. The alternate test procedure is the same as the existing test procedure for residential dishwashers except that it takes into account the manual-

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<sup>5</sup> 10 C.F.R. Pt. 430, Subpt. B, App. C1 ("Appendix C1").

fill design characteristics of the CNA model, which prevent testing according to that procedure.

Specifically:

CNA shall be required to test the performance of the basic model subject to the waiver according to the test procedure for residential dishwashers in 10 C.F.R. Part 430, Subpart B, Appendix C1, except as follows:

*Add the following at the end of Section 2.4 of Appendix C1:*

“For manually filled dishwashers that do not have a direct water line, these water pressure conditions do not apply because the water will be added manually according to Section 2.6.2.1.”

*Add new Section 2.6.2.1 of Appendix C1 as follows:*

“For compact dishwashers that do not have a direct water line, manually fill the built-in water reservoir to the full 5-liter reservoir capacity stated by the manufacturer, using water at a temperature in accordance with section 2.3.3 of this appendix.”

*Add the following at the end of Section 2.10.2 of Appendix C1:*

“For manually filled dishwashers that do not have a direct water line, the  $V_{mw}$  is equal to 0.396 gallons (or 1.5 liters), which is the water capacity used in the main wash stage of the test cycle.”

*Add the following at the end of Section 3.3 of Appendix C1:*

“For manually filled dishwashers that do not have a direct water line, these water meter conditions do not apply. Water is added manually pursuant to section 2.6.2.1.”

*Add the following at the end of Section 3.4 of Appendix C1:*

“For manually filled dishwashers that do not have a direct water line, these water pressure gauge conditions do not apply. Water is added manually pursuant to section 2.6.2.1.”

*Add the following at the end of Section 5.4.1 of Appendix C1:*

“For manually filled dishwashers that do not have a direct water line, the water consumption is equal to 4.8 liters, which is the volume of water used in the test cycle.”

#### **IV. PETITION FOR INTERIM WAIVER**

CNA also hereby applies for an Interim Waiver of the applicable test procedure requirements for its very-small-capacity, highly compact, manually filled countertop residential dishwasher. The basic model for which an Interim Waiver is requested is factory basic model X1 and CNA model MCSCD3W. The model would be distributed in commerce under the Magic Chef brand name. CNA meets the criteria for an Interim Waiver.

The Petition for Waiver is likely to be granted, as evidenced by its merits. CNA is likely to succeed in its Petition because the design characteristics described above prevent testing of the CNA model according to the prescribed test procedure contained in 10 C.F.R. Part 430, Subpart B, Appendix C1. Without waiver relief, CNA would be subject to requirements that clearly should not—and cannot—apply to this product. Additionally, CNA is likely to suffer economic hardship and competitive disadvantage if it must wait to rate this basic model for DOE purposes and distribute it in commerce in the United States. In the absence of an Interim Waiver, CNA will lack certainty as to whether it can launch these small-capacity, highly compact countertop dishwashers into the market. CNA predicts strong consumer demand for these dishwashers, and the inability to bring them to market through denial of an Interim Waiver will cause economic hardship and competitive disadvantage for CNA.

DOE approval of CNA’s Interim Waiver application is also supported by sound public policy reasons. The CNA product at issue meets consumers’ needs in today’s marketplace for portable, highly compact dishwashers. CNA’s testing of this machine suggests that it is an affordable, energy-efficient alternative to installing a higher-capacity compact or standard

machine. There is no basis on which to delay these innovative products from entering the marketplace.

V. **CONCLUSION**

CNA respectfully requests that DOE grant its Petition for Waiver of the applicable test procedure for the specified basic model and grant its Petition for Interim Waiver.

CNA requests expedited treatment of these Petitions for Interim Waiver and Waiver. In that regard, DOE has stated in its notice concerning its certification, compliance, and enforcement rule: “The Department renews its commitment to act swiftly on waiver requests.”<sup>6</sup> CNA appreciates this commitment by DOE.

Respectfully submitted,

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<sup>6</sup> Energy Conservation Program: Certification, Compliance, and Enforcement for Consumer Products and Commercial and Industrial Equipment, 76 Fed. Reg. 12421, 12442 (March 7, 2011). DOE goes on to state, “DOE, as a matter of policy, will refrain from enforcement actions related to a waiver request that is pending with the Department.” *Id.* To the same effect, DOE has stated, “DOE recognizes that product innovations will always outpace DOE’s rulemaking efforts. Thus, to encourage waivers and prevent the Department’s administrative waiver process from delaying or deterring the introduction of novel, innovative products into the marketplace, the Department, as a matter of policy, will refrain from an enforcement action related to a specific basic model while a waiver request is pending with the Department.” Enforcement Policy Statement - Pending Test Procedure Waiver Applications (issued Dec. 23, 2010) (re-issued Apr. 5, 2017), <https://energy.gov/sites/prod/files/2017/04/f34/Enforcement%20Policy%20-%20waivers.pdf>