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## 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:** Final rule.

**SUMMARY:** In this final rule, the U.S. Department of Energy (“DOE”) is adding clarifying instructions to the dishwasher test procedure regarding the allowable dosing options for each type of detergent; clarifying the existing detergent reporting requirements; and adding 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).

**DATES:** The effective date of this rule is August 28, 2023. The amendments will be mandatory for product testing starting January 23, 2024. The incorporation by reference of certain material listed in this rule was approved by the Director of the Federal Register as of February 17, 2023.

**ADDRESSES:** 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, not all documents listed in the index may be publicly available, such as those containing information that is exempt from public disclosure.

A link to the docket web page can be found at [www.regulations.gov/docket/EERE-2023-BT-TP-0007](http://www.regulations.gov/docket/EERE-2023-BT-TP-0007). The docket web page contains instructions on how to access all documents, including public comments, in the docket.

For further information on how to review 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

Dishwashers are included in the list of “covered products” for which the

U.S. Department of Energy (“DOE”) is authorized to establish and amend energy conservation standards and test procedures. (42 U.S.C. 6292(a)(6)) DOE’s test procedures for dishwashers are currently prescribed in the Code of Federal Regulations (“CFR”) at 10 CFR 430.23(c); appendix C1 to subpart B of part 430 (“appendix C1”); and appendix C2 to subpart B of part 430 (“appendix C2”).<sup>1</sup> The following sections discuss DOE’s authority to establish and amend test procedures for dishwashers and relevant background information regarding DOE’s consideration of test procedures for this equipment.

#### A. Authority

The Energy Policy and Conservation Act, Public Law 94-163, as amended (“EPCA”),<sup>2</sup> authorizes DOE to regulate the energy efficiency of several consumer products and certain industrial equipment. (42 U.S.C. 6291-6317) Title III, Part B of EPCA<sup>3</sup> 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. 6291-6309) 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 conservation standards (42 U.S.C. 6295), and the authority to require information and reports from manufacturers (42 U.S.C. 6296).

<sup>1</sup> Use of appendix C1 is required to demonstrated compliance with the currently applicable energy conservation standards for dishwashers. Use of appendix C2 will be required to determine compliance with any amended standards for dishwashers published after January 1, 2023.

<sup>2</sup> All references to EPCA in this document refer to the statute as amended through the Energy Act of 2020, Public Law 116-260 (Dec. 27, 2020), which reflect the last statutory amendments that impact Parts A and A-1 of EPCA.

<sup>3</sup> For editorial reasons, upon codification in the U.S. Code, Part B was redesignated 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 under EPCA (42 U.S.C. 6295(s)), and (2) making other representations about the efficiency of those products (42 U.S.C. 6293(c)). Similarly, DOE must use these test procedures to determine whether the products comply with any 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 EPCA requirement that, at least once every 7 years, DOE review the test procedure for dishwashers. (42 U.S.C. 6293(b)(1)(A))

#### B. Background

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). On January 18, 2023, DOE published a final rule (“January 2023 Final Rule”) that, in addition to establishing a new appendix C2 test procedure that requires use of Cascade Complete Powder detergent, amended appendix C1 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, among several other updates. 88 FR 3234, 3428. The effective date of amended appendix C1 was February 17, 2023, and use of the amended appendix C1 is mandatory for product testing starting July 17, 2023. Use of appendix C2 will be required to determine compliance with any amended standards for dishwashers published after January 1, 2023.

Prior to the amendments of the January 2023 Final Rule, section 2.10 of appendix C1 specified the detergent type and dosage that must be used for

testing.<sup>4</sup> Specifically, section 2.10 specified 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. Appendix C1 to subpart B of 10 CFR part 430 (2022). However, Cascade with the Grease Fighting Power of Dawn has been discontinued and has been replaced on the market with the Cascade® Complete™ Powder formulation.

Previously, 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 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 Cascade Complete Powder formulation to conduct testing according to 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 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 10 CFR 429.110, respectively, would be performed using the same detergent used by the manufacturer for certifying compliance with the energy conservation standards. *Id.* at 87 FR 43969.

In the January 2023 Final Rule, DOE amended appendix C1 to specify that Cascade Complete Powder detergent may alternately be used for testing dishwashers in conjunction with the detergent dosing requirement that is based on the number of place settings rather than wash water fill volumes, among several other updates. 88 FR 3234, 3247–3248. DOE stated in the

<sup>4</sup> As amended by the January 2023 Final Rule, section 2.5 of appendix C1 specifies the detergent type and dosage that must be used for testing.

January 2023 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 Cascade with the Grease Fighting Power of Dawn detergent. *Id.* at 88 FR 3247. DOE also stated that by maintaining the use of Cascade with the Grease Fighting Power of Dawn detergent and water volume-based dosing requirements, manufacturers would not be required to re-test currently certified dishwashers. *Id.*

In specifying the place settings-based detergent dosing requirement for Cascade Complete Powder in appendix C1 in the January 2023 Final Rule, DOE did not intend to require manufacturers who have already certified dishwashers using Cascade Complete Powder in conjunction with the water volume-based detergent dosing requirement to re-test and re-certify using the place settings-based detergent dosing requirement. To make explicit DOE’s intent, on March 23, 2023, DOE published a notice of proposed rulemaking (“March 2023 NOPR”) proposing amendments to the test procedure at appendix C1 to explicitly allow the use of Cascade Complete Powder detergent with the water-volume-based detergent dosing requirements. 88 FR 17419, 17421. In addition to the appendix C1 proposed amendments, DOE proposed to amend certification reporting instructions at 10 CFR 429.19(b)(3) to specify the applicable dates for each detergent formulation and dosing combination in the March 2023 NOPR. DOE also proposed adding a product-specific enforcement provision for dishwashers at 10 CFR 429.134(z)(2) to explicitly 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. 88 FR 17419, 17421–17422.

DOE received comments in response to the March 2023 NOPR from the interested parties listed in Table I.1.

TABLE I.1—LIST OF COMMENTERS WITH WRITTEN SUBMISSIONS IN RESPONSE TO THE MARCH 2023 NOPR

Commenter(s)	Reference in this final rule	Comment No. in the docket	Commenter type
Hodgson .....	Hodgson .....	2	Individual.
Association of Home Appliance Manufacturers ..	AHAM .....	3	Trade Association.

A parenthetical reference at the end of a comment quotation or paraphrase provides the location of the item in the public record.<sup>5</sup>

*C. Deviation From the Process Rule*

In the March 2023 NOPR, DOE noted that it was deviating from the provision in section 8(a) of 10 CFR part 430, subpart C, appendix A (“the Process Rule”), regarding the early assessment process in a test procedure rulemaking. 88 FR 17419, 17421. Section 8(a) of the Process Rule 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.

AHAM commented that it supported the deviation from section 8(a) of the Process Rule, as the circumstances provided in the March 2023 NOPR justify the deviation. (AHAM, No. 3 at p. 2)

As discussed in the March 2023 NOPR, DOE is conducting this rulemaking to address a single specific issue rather than comply with the 7-year lookback requirement prescribed by EPCA. 88 FR 17419, 17421. 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 the Process Rule regarding the early assessment process.

**II. Discussion**

*A. General Comments*

AHAM commented that it appreciated DOE’s swift guidance and test procedure change to improve repeatability and reproducibility of the test procedure and reduce undue testing burden on manufacturers. AHAM also urged DOE to publish a final rule as quickly as possible. (AHAM, No. 3 at p. 3)

<sup>5</sup> The parenthetical reference provides a reference for information located in the docket of DOE’s rulemaking to develop test procedures for dishwashers. (Docket No. EERE–2023–BT–TP–0007, which is maintained at [www.regulations.gov](http://www.regulations.gov)) The references are arranged as follows: (commenter name, comment docket ID number, page of that document).

DOE appreciates AHAM’s comments. DOE’s intention with this final rule is to improve the clarity of the amended appendix C1 and reduce burden to manufacturers. Further, DOE has worked to move swiftly with this rulemaking so that this final rule could be published prior to the July 17, 2023, mandatory compliance date of the amended appendix C1 established by January 2023 Final Rule.

Hodgson opposed DOE’s proposal, stating that consumer demand and transparent labeling of energy and water consumption would be sufficient to drive efficiency without further rulemaking. (Hodgson, No. 2 at p. 1)

In response to Hodgson, the March 2023 NOPR did not propose any changes with respect to the energy conservation standards applicable to dishwashers. As supported by AHAM’s comment describing the results of its testing, the amendments proposed in the March 2023 NOPR would not be expected to change the measured energy and water use of dishwashers.

*B. 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 appendix C1 (87 FR 43952, 43969–43970), it did not explicitly permit the use of Cascade Complete Powder detergent formulation with the water volume-based dosage requirements 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 water volume-based dosage requirements or Cascade Complete Powder detergent only with the place settings-based detergent dosing requirement. However, in specifying the new detergent dosing requirement for Cascade Complete Powder in appendix C1 in the January 2023 Final Rule, DOE did not intend to require manufacturers who have already certified dishwashers using the new Cascade Complete Powder in

conjunction with the water volume-based detergent dosing requirement to re-test and re-certify using the place settings-based detergent dosing requirement.

Therefore, in the March 2023 NOPR, DOE proposed to amend section 2.5 of appendix C1 to explicitly allow the use of Cascade Complete Powder detergent with either the dosage requirements based on fill water volumes or based on number of place settings. 88 FR 17419, 17421. DOE’s proposal in the March 2023 NOPR sought to clarify the current test procedure and prevent the need for manufacturers that have used, or intend to use until July 17, 2023, Cascade Complete Powder detergent with dosing based on fill water volumes rather than number of place settings to re-test and re-certify. *Id.*

DOE requested feedback on its proposal to amend appendix C1 to explicitly allow the use of Cascade Complete Powder detergent with either the dosage requirements based on fill water volumes, or the dosage requirements based on number of place settings until July 17, 2023. *Id.*

AHAM commented that it supports DOE’s proposal to amend appendix C1 to explicitly allow the use of Cascade Complete Powder detergent with either the dosage requirements based on fill water volumes or based on number of place settings. AHAM commented that while the version of appendix C1 prior to the January 2023 Final Rule allows the use of Cascade with the Grease Fighting Power of Dawn detergent only with the fill water volume-based dosing method, manufacturers are predominantly using the Cascade Complete Powder detergent. AHAM commented that DOE’s proposal in the March 2023 NOPR would add clarity to the test procedure and would eliminate unnecessary test burden from requiring manufacturers to re-test models using the Cascade Complete Powder detergent with the detergent dosing based on number of place settings. (AHAM, No. 3 at p. 2) AHAM noted the burden reduction is especially important in light of the significant cumulative regulatory burden associated with DOE’s proposed energy conservation standards for several products under AHAM’s scope that impact dishwasher manufacturers. (AHAM, No. 3 at p. 3)

DOE appreciates AHAMs comments and notes that DOE did not intend to require manufacturers who have already certified dishwashers using the new Cascade Complete Powder in conjunction with the water volume-based detergent dosing requirement to re-test and re-certify using the place settings-based detergent dosing requirement.

AHAM additionally commented that while conducting round-robin testing for AHAM's performance test procedure, AHAM members collected data that showed test results for measured energy consumption between the two detergent dosage methods were comparable. AHAM commented that its members also do not expect that there will be a difference in measured efficiency based on the detergent dosing method and that its members do not believe the dosing method would impact product performance, despite the use of potentially less detergent under the new dosing method.<sup>6</sup> (*Id.* at pp. 2–3)

DOE appreciates the additional data provided by AHAM and observes that the data suggest that the water volume-based dosing method and the place settings-based dosing method produce generally comparable results for machine energy consumption. DOE notes, however, that AHAM's comment does not specify which detergent was used for testing nor does it provide the measured water consumption or water heating energy. Therefore, DOE cannot draw conclusions on the rated energy and water consumption of dishwashers from the data provided.

AHAM also commented that there was a minor error in the amended appendix C1. Specifically, AHAM commented that in section 2.5 of appendix C1, there are references to sections 2.6.1 and 2.6.2 for the detergent dosing amount determination, but these sections should instead reference sections 2.5.1 and 2.5.2. (AHAM, No. 3 at p. 3)

Regarding AHAM's comment that section 2.5 of appendix C1 as amended by the January 2023 Final Rule improperly references sections 2.6.1 and 2.6.2, DOE notes that the amendments proposed to section 2.5 in the March 2023 NOPR would correct these references as indicated by AHAM in its comment.

For the reasons discussed in the March 2023 NOPR, and in consideration of comments received by AHAM, DOE is finalizing amendments to appendix C1 as proposed to explicitly allow, until

July 17, 2023, the use of Cascade Complete Powder detergent with either the dosage requirements based on fill water volumes, or the dosage requirements based on number of place settings.

#### *C. Certification Reporting Provisions for Dishwashers*

In conjunction with the proposed amendment to appendix C1 as described, DOE proposed in the March 2023 NOPR 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). 88 FR 17419, 17421. Specifically, DOE proposed to amend 10 CFR 429.19 to specify in a new paragraph (b)(3)(vi)(A) that before July 17, 2023, Cascade Complete Powder detergent may be used as the basis for certification in conjunction with either detergent dosing method (*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 detergent dosing method based on fill water volumes. 88 FR 17419, 17421–17422.

DOE further proposed to specify in a new paragraph (b)(3)(vi)(B) to 10 CFR 429.19 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 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 detergent dosing method based on fill water volumes. DOE also proposed to clarify that manufacturers may maintain basic model certifications made prior to July 17, 2023. 88 FR 17419, 17422.

DOE sought 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. *Id.*

DOE did not receive any comments on this specific topic. For the reasons discussed, DOE is finalizing its proposal from the March 2023 NOPR regarding certification reporting provisions for dishwashers.

#### *D. Enforcement Testing Provisions for Dishwashers*

In the March 2023 NOPR, DOE proposed adding a product-specific

enforcement provision for dishwashers 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. 88 FR 17419, 17422. This proposal sought to provide greater certainty regarding how DOE would conduct any enforcement testing for any dishwashers certified prior to July 17, 2023, using the Cascade Complete Powder detergent, as implicitly permitted by the July 2022 Certification Final Rule. In the March 2023 NOPR, DOE noted that it may request any information relevant to determining compliance per the requirements specified at 10 CFR 429.106(b), and the proposal to request detergent dosage information for the purposes of conducting enforcement testing would be consistent with that requirement. *Id.*

DOE did not receive specific comments on this topic. For the reasons discussed, DOE is finalizing its proposal, consistent with the March 2023 NOPR, 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 to certify compliance with the applicable energy conservation standards.

### **III. Procedural Issues and Regulatory Review**

#### *A. Review Under Executive Orders 12866, 13563, and 14094*

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), and amended by E.O. 14094, “Modernizing Regulatory Review,” 88 FR 21879 (April 11, 2023), 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, among other things, and to the extent practicable, the costs of cumulative regulations; (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) to the extent feasible, specify

<sup>6</sup> DOE understands the new dosing method to refer to the place-setting based dosing method.

performance objectives, 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 final 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. This does not constitute a significant 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 a final regulatory flexibility analysis (“FRFA”) for any final rule where the agency was first required by law to publish a proposed rule 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 (August 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](http://www.energy.gov/gc/office-general-counsel). DOE reviewed this final rule under the provisions of the Regulatory Flexibility Act and the procedures and policies published on February 19, 2003.

This final rule amends appendix C1 to remove uncertainty about dishwashers that may be currently certified under appendix C1 as it appeared prior to the

January 2023 Final Rule using Cascade Complete Powder 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 July 17, 2023, required use date of appendix C1 as amended by the January 2023 Final Rule. These amendments do not affect the scope or substance of the currently applicable or amended test procedure for dishwashers.

Accordingly, DOE concludes that the cost effects accruing from the final rule would not have a “significant economic impact on a substantial number of small entities,” and that the preparation of a FRFA is not warranted. DOE has submitted a 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 amending the certification or reporting requirements for dishwashers in this final rule, rather it is clarifying the certification requirements.

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 final rule, DOE is adding 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 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 (August 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 examined this final rule and determined that it will 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 final 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, this final 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. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a regulatory action resulting 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](http://www.energy.gov/gc/office-general-counsel). DOE examined this final 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 final rule will 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 regulation will 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](http://www.energy.gov/sites/prod/files/2019/12/f70/DOE%20Final%20Updated%20IQA%20Guidelines%20Dec%202019.pdf). DOE has

reviewed this final 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 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 significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use if the regulation is implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

This regulatory action 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 was previously approved for incorporation by reference into the provisions where they appear in this rulemaking and no change to the standard is being made: AHAM DW–1–2020.

#### L. Congressional Notification

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of this rule prior to its effective date. The report will state that it has been determined that the rule is not a “major rule” as defined by 5 U.S.C. 804(2).

#### IV. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this final rule.

#### 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, Incorporation by reference, Intergovernmental relations, Small businesses.

**Signing Authority**

This document of the Department of Energy was signed on July 19, 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 July 20, 2023.

**Treena V. Garrett,**  
Federal Register Liaison Officer, U.S.  
Department of Energy.

For the reasons stated in the preamble, DOE amends 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. Amend § 429.19 by revising paragraph (b)(3)(vi) 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 to subpart B of part 430. 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.

(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 to subpart B of part 430. 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. Manufacturers may maintain existing basic model certifications made prior to July 17, 2023, consistent with the provisions of paragraph (b)(3)(vi)(A) of this chapter.

■ 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:

- a. Revising the introductory note and sections 2.5 and 2.5.1;
- b. Removing sections 2.5.1.1 and 2.5.1.2;
- c. Revising section 2.5.2; and
- d. Adding sections 2.5.2.1, 2.5.2.1.1, 2.5.2.1.2, 2.5.2.2, and 2.5.3.

The revisions and additions read as follows:

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

**Note:** Before January 23, 2024, manufacturers must use the results of testing under this appendix as codified on August 28, 2023, 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 January 23, 2024, 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 this subpart 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. The regulation at 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.

\* \* \* \* \*

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,  
 $\rho$  = 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

$\rho$  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.

\* \* \* \* \*

[FR Doc. 2023-15725 Filed 7-26-23; 8:45 am]

BILLING CODE 6450-01-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

[Docket No. FAA-2022-0197; Airspace Docket No. 21-AAL-17]

RIN 2120-AA66

#### Amendment of United States Area Navigation (RNAV) Route T-226; Central, AK

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This action amends United States Area Navigation (RNAV) route T-226 in the vicinity of Central, AK, in support of a large and comprehensive T-route modernization project for the state of Alaska.

**DATES:** Effective date 0901 UTC, October 5, 2023. The Director of the Federal

Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order JO 7400.11 and publication of conforming amendments.

**ADDRESSES:** A copy of the Notice of Proposed Rulemaking (NPRM), all comments received, this final rule, and all background material may be viewed online at [www.regulations.gov](http://www.regulations.gov) using the FAA Docket number. Electronic retrieval help and guidelines are available on the website. It is available 24 hours each day, 365 days each year.

FAA Order JO 7400.11G, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at [www.faa.gov/air\\_traffic/publications/](http://www.faa.gov/air_traffic/publications/). You may also contact the Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267-8783.

**FOR FURTHER INFORMATION CONTACT:** Steven Roff, Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267-8783.

#### SUPPLEMENTARY INFORMATION:

##### Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it expands the availability of RNAV in Alaska and improves the efficient flow of air traffic within the National Airspace System (NAS) by lessening the dependency on ground-based navigation.

##### History

The FAA published an NPRM for Docket No. FAA-2022-0197 in the **Federal Register** (87 FR 13666; March 10, 2022), amending RNAV route T-226 in the vicinity of Central, AK, in support of a large and comprehensive T-route modernization project for the state of

Alaska. Interested parties were invited to participate in this rulemaking effort by submitting comments on the proposal. One positive comment was received.

The commenter supported the FAA's Next Generation Transportation System (NextGen) NAS transition efforts and the proposal to remove the waypoints (WP) not required for T-226 in the affected areas in the State of Alaska. The commenter offered that the FAA's actions were beneficial to improving compliance results, creating a better safety culture, and preventing accidents along the air routes. The commenter closed with support for the FAA's approval of the proposed action.

##### Incorporation by Reference

United States Area Navigation Routes are published in paragraph 6011 of FAA Order JO 7400.11 Airspace Designations and Reporting Points, which is incorporated by reference in 14 CFR 71.1 on an annual basis. This document amends the current version of that order, FAA Order JO 7400.11G, dated August 19, 2022, and effective September 15, 2022. FAA Order JO 7400.11G is publicly available as listed in the **ADDRESSES** section of this document. These amendments will be published in the next update to FAA Order JO 7400.11.

FAA Order JO 7400.11G lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

##### The Rule

This action amends 14 CFR part 71 by amending RNAV route T-226 in the vicinity of Central, AK, in support of a large comprehensive T-route modernization project for the state of Alaska. The amendment is described below.

T-226: T-226 extends between the Johnstone Point, AK, Very High Frequency (VHF) Omnidirectional Range/Distance Measuring Equipment (VOR/DME) and the Fort Yukon, AK, VHF Omnidirectional Range/Tactical Air Navigation (VORTAC) navigational aid. This action removes the FIDAL, AK; ROBES, AK; KLUNG, AK; DOZEY, AK; PAXON, AK; and DONEL, AK, Fixes and the HEXAX, AK, WP from the route description since they are not required to retain the route's structure. The Fixes and WP will remain in the National Airspace System Resource database and continue to be depicted on IFR En Route charts.