

modification to the definition of “sensor medium response” in this rule. The Department will also make conforming changes with the additions of “sensor heavy response” and “sensor light response” to the definition of L. The Department has also modified the equation of  $H_s$  published in the NOPR by replacing “215 cycles/year” with “N” and defining “N” in section 5.6 of the final rule as “the representative average dishwasher use of 215 cycles per year.” This change has no effect on the value calculated, but gives a clearer presentation of the equation, and is consistent with the definition of N presented in section 430.23 (c)(1)(i) for computing the EAOc.

#### Correct Typographical Error in Equation for Energy Factor (EF)

This final rule corrects a typographical error, a missing equal sign in the equation for EF on the first column of page 56242 of the September 2002 NOPR. (67 FR 56242)

#### Reword Flow Rate Tolerance

In section 3.3 of the September 2002 NOPR, the specifications for the water meter stated that the maximum error can be no greater than 1.5 percent for all water flow rates from one to five gallons per minute. AHAM suggested that the specification be changed to plus or minus 1.5 percent of the actual measured flow rate. This would “reflect the actual range of dishwasher operating flow rates for the tested product instead of a blanket range of one to five gallons per minute.” (AHAM No. 33 at 7) Following the October 22nd public hearing, OOE submitted a comment endorsing this change. (OOE No. 36 at 4) The Department recognizes that the revised specification has the potential to reduce the testing burden for manufacturers or private labelers because the flow meter would only need to meet the specification of a maximum error of 1.5 percent at the test flow rate. Because it is irrelevant how the flow meter operates at flow rates outside of the testing range, manufacturers or private labelers would no longer be required to ensure a maximum error of 1.5 percent at flow rates outside of the test range. The Department believes this revision retains the original testing accuracy while potentially reducing instrumentation costs. Therefore, DOE has made this change in section 3.3 of the test procedure.

#### Reduce 140 °F Tolerance from $\pm 5$ °F to $\pm 2$ °F

Section 2.3.2 of the existing test procedure requires a tolerance of plus or minus 2 °F for maintaining the water

supply temperature when testing with 120 °F inlet water temperature. Section 2.3.1 requires plus or minus 5 °F when testing with 140 °F inlet water temperature. Because water temperature is an important factor in calculating energy consumption, AHAM proposed that the tolerance at 140 °F be reduced to plus or minus 2 °F as well. (AHAM No. 33 at 7) This change narrows the testing band and thereby reduces variability in the test procedure. Because of this, and because industry suggested the change and does not view it as a test burden, DOE is incorporating the change into section 2.3.1 of this final rule.

#### Revise Format of Measurement Descriptions of Machine Electrical Energy Consumption and Water Consumption

The measurement instructions presented in sections 4.2 and 4.3 of the September 2002 NOPR contained some minor inconsistencies regarding the placement order of machine electrical energy consumption, “M”, and water consumption, “W”. With some minor rewording, the Department has improved the clarity of the instructions and the consistency of the format. These editorial modifications improve the description of the measurements without changing any test procedure requirements.

#### G. Effective Date of New Test Procedure

In the interest of making the new test procedure effective and available for use as soon as possible, Whirlpool, AHAM, OOE, and CEE recommended that the new rule take effect 30 days after publication of the rule. (Whirlpool No. 34 at 2; AHAM No. 33 at 6; OOE No. 36 at 4; CEE No. 35 at 1) Because the new test procedure will enable manufacturers or private labelers to test soil-sensing machines with greater accuracy, DOE agrees with this comment and has adopted a 30-day effective date to facilitate accuracy in testing and labeling. Thus, as early as 30 days after this final rule is published in the **Federal Register**, a manufacturer, distributor, retailer, or private labeler may begin using the new test procedure to make representations with respect to the energy use, efficiency, or cost of energy consumed by a dishwasher model. As noted above, effective 180 days after this final rule is published in the **Federal Register**, no manufacturer, distributor, retailer, or private labeler may make any representation with respect to the energy use, efficiency, or cost of energy consumed by a dishwasher model, unless the dishwasher has been tested in

accordance with the new DOE test procedure and the representation fairly discloses the results of that testing.

#### H. Reporting Requirements

In the September 2002 NOPR, DOE requested comments regarding the possibility that the Department would at some future time “require manufacturers to produce reports concerning the testing of soil-sensing models pursuant to the amended test procedure.” (67 FR 56238–56239) AHAM commented that the requirement of additional reports would be “misguided,” believing that present reporting requirements adequately communicate energy usage of residential dishwashers. (AHAM No. 33 at 4) It commented that existing penalties would continue to deter incorrect reporting, and did not support new reporting requirements that would increase the complexity of, or the effort for, reporting energy usage. (AHAM No. 33 at 4) Whirlpool reiterated that it would not want to have to create additional documentation other than modifications to documents that it was already submitting. (Public Hearing Tr. p. 199)

The Department agrees that current reporting requirements do appear to cover the information necessary for conveying the energy usage of both non-soil-sensing and soil-sensing machines and will not require additional reports to DOE at this time. Although this final rule requires that the EAOc and EAEU must be calculated to include standby power, it does not require these figures be submitted to the DOE as part of a certification report. At the October 22 public hearing, there were no objections to calculating the EAEU in addition to the EAOc that manufacturers or private labelers already calculate. Manufacturers or private labelers should maintain their test records, including the EAOc and EAEU, as part of their permanent appliance files on each dishwasher model.

This final rule clarifies one change in a reporting requirement. The December 18, 2001, final rule (66 FR 65097) changed the definitions of compact and standard dishwashers, making place-setting capacity the determining factor instead of the width of the dishwasher. That final rule, however, did not eliminate the existing requirement in section 430.62(a)(4)(vi) to report the width of a dishwasher to DOE in certification reports. Because the width measurement no longer determines whether a dishwasher is a compact or standard model, DOE is not requiring manufacturers or private labelers to measure and report it. Instead, they