

NOPR would be too complex and prohibitively expensive from the manufacturers' perspective. Rather than relying on unquantifiable consumer behavior to set three different test levels, they stated that it would be better to use an arbitrarily selected soil load such as the IEC soil load of dishes that would provide a realistic basis for testing all dishwashers—an artificial but fair rating point for comparing products. (Australia No. 37 at 5)

These comments touch on many important questions. However, DOE rejects these suggestions. The rule DOE has decided to finalize today has received extensive scrutiny from U.S. manufacturers and stakeholders and earned significant consensus support. The commenters have not demonstrated that DOE's proposed test procedure is too complex or expensive; in fact, stakeholder consensus in support of the new test procedure and other modifications demonstrates otherwise. DOE further believes that the best empirical data available to it supports DOE's final rule. Finally the issue of coupling an assessment of wash performance with energy consumption testing is outside the scope of the Department's current appliance testing program and outside the scope of this rulemaking.

K. Implementation and Effect of New Test Procedure

Today's final rule will produce a more accurate and complete picture of dishwasher energy consumption by providing two test procedures according to dishwasher type. Manufacturers or private labelers first determine whether a dishwasher is a soil-sensing or non-soil-sensing model according to the definitions in sections 1.12 and 1.5 of the rule, and then follow instructions specific to that type of model. They must test soil-sensing dishwashers using a three-level, soil-based test which will yield an energy factor that is based on a range of challenges to the machines' automatic sensing systems. For non-soil-sensing dishwashers, manufacturers or private labelers still will use the original test procedure with clean dishes to determine the energy factor as the average of the test results from the normal and truncated normal cycles. In addition, manufacturers or private labelers must calculate the standby power consumption for any dishwasher using energy in standby mode and add that figure to the EAOC and EAEU totals, but not to the energy factor.

The test procedure for soil-sensing dishwashers requires manufacturers or private labelers to use ANSI/AHAM DW-1 to specify the size and

composition of the place settings and the quantities and types of soils which they must apply to the dishes for the series of three soil tests: Heavy, medium and light. This final rule specifies in section 2.7 of the test procedure the type of dishware for manufacturers or private labelers to use, and in section 2.8 requires only half the detergent used in the ANSI/AHAM DW-1 performance test and no rinse agent. After they run a preconditioning cycle (section 2.10), the test procedure for standard size dishwasher models requires manufacturers or private labelers to conduct the following three tests in this order: First, the test for a dishwasher's heavy response, using four soiled place settings; second, the test for the medium response, using two soiled place settings; and third, the test for the light response, using one half the soil load for a single place setting. (Section 2.6.3) Tests of compact models follow the same order, but reduce the soiled loads for the heavy and medium tests by half. The light soil load is the same as for standard models. During each of the three test runs, the test procedure requires manufacturers or private labelers to calculate the machine energy consumption, drying energy consumption, water consumption, and water energy consumption. For soil-sensing dishwashers, the energy factor will combine the results of the three tests, averaged with the following weighted percentages which represent the frequency of those consumer loads: 0.05 for the heavy response, 0.33 for the medium response, and 0.62 for the light response. (Sections 5.1.2 and 5.2.2)

The test procedure defines standby mode and details the equipment and method for calculating standby energy consumption. (Section 4.4) Two options are available for measuring standby energy consumption, depending on whether the power is stable. If the stability criteria in section 4.4 are met, manufacturers or private labelers can measure the standby power directly using a wattmeter. If the standby power consumption is not stable, that is, there is excessive variation in the power levels, then the manufacturers or private labelers must measure the power consumption using a watt-hour meter over a period of at least five minutes. Then they calculate the average standby power by dividing the value measured using the watt-hour meter by measurement period. These changes provide the means to obtain a quantitative value for the level of standby power which the dishwasher consumes. Manufacturers or private labelers must add this standby power

amount to the machine and water energy computed for the normal cycle and representative normal cycle for soil-sensing models, and include those amounts in the EAOC and EAEU.

By combining standby power consumption with the energy consumed by the wash cycle, this test procedure will calculate information that will provide consumers with more realistic and accurate estimates of the complete operating cost and energy use of each dishwasher. With the soil test, soil-sensing dishwashers have a test procedure that challenges the cycle responses which the sensing technology controls. It will provide a better approximation of the actual energy consumption of soil-sensing models as consumers use them than did the original test which used clean dishes and did not engage the action of the soil-sensing mechanisms to take a dishwasher beyond the lightest wash cycles.

III. Procedural Requirements

A. Review Under the National Environmental Policy Act of 1969

In this rule, the Department finalizes amendments to test procedures that are used to implement energy conservation standards for dishwashers. The Department has reviewed the rule under the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*, the regulations of the Council on Environmental Quality, 40 CFR parts 1500–1508, and the Department's regulations for compliance with NEPA, 10 CFR part 1021. The Department has determined that this rule falls into a class of actions that are categorically excluded from review under NEPA. This rule will not affect the quality or distribution of energy usage and, therefore, will not result in any environmental impacts. The Department has therefore determined that this rule is covered by Categorical Exclusion A5, for rulemakings that interpret or amend an existing rule without changing its environmental effect, as set forth in the Department's NEPA regulations in appendix A to subpart D, 10 CFR part 1021. Accordingly, neither an environmental impact statement nor an environmental assessment is required.

B. Review Under Executive Order 12866, "Regulatory Planning and Review"

Today's final rule is not a "significant regulatory action" as defined in section 3(f) of Executive Order 12866, "Regulatory Planning and Review" 58 FR 51735 (October 4, 1993). Accordingly, today's action is not subject to review under the Executive