



**[6450-01-P]**

**DEPARTMENT OF ENERGY**

**Office of Energy Efficiency and Renewable Energy**

**[Case No. DW-012]**

**Energy Conservation Program for Consumer Products: Decision and Order Granting a Waiver to Miele Incorporated from the Department of Energy Residential Dishwasher Test Procedure**

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

**ACTION:** Decision and Order.

**SUMMARY:** The U.S. Department of Energy (DOE) gives notice of a decision and order (Case No. DW-012) that grants to Miele Incorporated (Miele) a waiver from the DOE dishwasher test procedure for determining the energy consumption of dishwashers. Under this decision and order, Miele is required to test and rate its dishwasher using an alternate test procedure that allows for testing of one specified basic model at 208 volts when measuring energy consumption.

**DATES:** This Decision and Order is effective **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**FOR FURTHER INFORMATION CONTACT:** Mr. Bryan Berringer, U.S. Department of Energy, Building Technologies Program, Mail Stop EE-5B, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585-0121. Telephone: (202) 586-0371. E-mail: AS\_Waiver\_Requests@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.

**SUPPLEMENTARY INFORMATION:** In accordance with Title 10 of the Code of Federal Regulations (10 CFR 430.27(f)(2)), DOE gives notice of the issuance of its decision and order as set forth below. The decision and order grants Miele a waiver from the applicable dishwasher test procedure in 10 CFR part 430, subpart B, appendix C1 for a certain basic model of dishwashers that operates at 208 volts, provided that Miele tests and rates such products using the alternate test procedure described in this notice. Miele's representations concerning the energy efficiency of these products must be based on testing consistent with the provisions and restrictions in the alternate test procedure set forth in the decision and order below, and the representations must fairly disclose the test results. Distributors, retailers, and private labelers are held to the same standard when making representations regarding the energy efficiency of these products. 42 U.S.C. 6293(c).

Not later than **[INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**, any manufacturer currently distributing in commerce in the United

States a product employing a technology or characteristic that results in the same need for a waiver from the dishwasher test procedure must submit a petition for waiver pursuant to the requirements of this section. Manufacturers not currently distributing such products in commerce in the United States must petition for and be granted a waiver prior to distribution in commerce in the United States. Manufacturers may also submit a request for interim waiver pursuant to the requirements of 10 CFR 430.27.

Issued in Washington, DC, on 4/4/2017

---

Kathleen Hogan  
Deputy Assistant Secretary for Energy Efficiency  
Energy Efficiency and Renewable Energy

## Decision and Order

*In the Matter of:* Miele Incorporated. (Case No. DW-012)

### I. *Background and Authority*

Title III, Part B of the Energy Policy and Conservation Act of 1975 (EPCA) (42 U.S.C. 6291-6309) established the Energy Conservation Program for Consumer Products Other Than Automobiles, a program that includes dishwashers.<sup>1</sup> Part B includes definitions, test procedures, labeling provisions, energy conservation standards, and the authority to require information and reports from manufacturers. Further, Part B authorizes the Secretary of Energy to prescribe test procedures that are reasonably designed to produce results measuring energy efficiency, energy use, or estimated operating costs, and that are not unduly burdensome to conduct. (42 U.S.C. 6293(b)(3)) The test procedure for residential dishwashers is contained in 10 CFR part 430, subpart B, appendix C1, Uniform Test Method for Measuring the Energy Consumption of Dishwashers.

The regulations set forth in 10 CFR 430.27 contain provisions that allow a person to seek a waiver from the test procedure requirements for a particular basic model of a type of covered product when that basic model contains one or more design characteristics that: (1) prevent testing according to the prescribed test procedure, or (2) cause the prescribed test procedures to 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(a)(1). DOE may grant the waiver subject to conditions, including adherence to alternate test procedures. 10 CFR 430.27(f)(2).

---

<sup>1</sup> For editorial reasons, upon codification in the U.S. Code, Part B was re-designated Part A.

## II. *Miele's Petition for Waiver: Assertions and Determinations*

On July 13, 2016, Miele filed a petition for waiver and application for interim waiver from the test procedure applicable to dishwashers set forth in 10 CFR part 430, subpart B, appendix C1. Miele has designed a dishwasher that runs on an electrical supply voltage of 208 volts. The existing test procedure under section 2.2 of 10 CFR part 430, subpart B, appendix C1 has provisions for testing at 115 and 240 volts only. In its petition for waiver, Miele submitted to DOE an alternate test procedure that allows for testing of one specified basic model at 208 volts.

Miele also requested an interim waiver from the existing DOE test procedure, which DOE granted. See 81 FR at 87027 (Dec. 2, 2016). After reviewing the alternate procedure suggested by Miele, DOE granted the interim waiver because DOE determined that Miele's petition for waiver would likely be granted and decided that it was desirable for public policy reasons to grant Miele immediate relief pending a determination on the petition for waiver. Miele's petition was published in the Federal Register on December 2, 2016. 81 FR 87027. DOE received no comments regarding Miele's petition.

DOE previously granted a petition for waiver submitted for an earlier design generation of Miele dishwasher rated for 208 volts (Case No. DW-006) on December 27, 2011, from the applicable residential dishwasher test procedure in 10 CFR part 430, subpart B, appendix C for certain basic models of dishwashers with a 208 volt supply voltage. 76 FR 80920.

### III. *Consultations with Other Agencies*

DOE consulted with the Federal Trade Commission (FTC) staff concerning the Miele petition for waiver. The FTC staff did not have any objections to granting a waiver to Miele.

### IV. *Order*

After careful consideration of all the material that was submitted by Miele and consultation with the FTC staff, in accordance with 10 CFR 430.27, it is ORDERED that:

(1) The petition for waiver submitted by the Miele Incorporated. (Case No. DW-012) is hereby granted as set forth in the paragraphs below.

(2) Miele must test and rate the Miele basic model specified in paragraph (3) on the basis of the current test procedure contained in 10 CFR part 430, subpart B, appendix C1 with the modification of section 2.2 of appendix C1 set forth below to provide for a dishwasher that operates with an electrical supply of 208 volts:

Dishwashers that operate with an electrical supply of 208 volts. Maintain the electrical supply to the dishwasher at 208 volts  $\pm$ 2 percent and within 1 percent of its nameplate frequency as specified by the manufacturer. Maintain a continuous electrical supply to the unit throughout testing, including the preconditioning cycles, specified in section 2.9 of this appendix, and in between all test cycles.

(3) This order applies only to the following basic model:

PG8056-208V.

(4) Representations. Miele may make representations about the energy use of its dishwasher products for compliance, marketing, or other purposes only to the extent that such products have been tested in accordance with the provisions outlined above and such representations fairly disclose the results of such testing.

(5) This waiver shall remain in effect consistent with the provisions of 10 CFR 430.27.

Issued in Washington, DC, on 4/4/2017

---

Kathleen B. Hogan  
Deputy Assistant Secretary for Energy Efficiency  
Energy Efficiency and Renewable Energy

[FR Doc. 2017-07109 Filed: 4/7/2017 8:45 am; Publication Date: 4/10/2017]