

Rules and Regulations

Federal Register

Vol. 87, No. 91

Wednesday, May 11, 2022

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents.

DEPARTMENT OF ENERGY

10 CFR Part 430

[EERE-2016-BT-TP-0018]

RIN 1904-AD68

Energy Conservation Program: Test Procedure for Uninterruptible Power Supplies; Correction

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

ACTION: Correcting amendment.

SUMMARY: On December 12, 2016, the U.S. Department of Energy ("DOE") published a final rule that added a test procedure for uninterruptible power supplies (UPSs) to the existing DOE test procedure for battery chargers. This document corrects an error in the amended regulatory text as it appeared in the December 2016 final rule. Neither the error nor the correction in this document affect the substance of the rulemaking or any conclusions reached in support of the final rule.

DATES: Effective May 11, 2022.

FOR FURTHER INFORMATION CONTACT:

Mr. Jeremy Domm, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE-5B, 1000 Independence Avenue SW, Washington, DC 20585-0121. Telephone: (202) 586-9870. Email:

ApplianceStandardsQuestions@ee.doe.gov.

Mr. Pete Cochran, U.S. Department of Energy, Office of the General Counsel, GC-33, 1000 Independence Avenue SW, Washington, DC 20585-0121. Telephone: (202) 586-9496. Email: peter.cochran@hq.doe.gov.

SUPPLEMENTARY INFORMATION:

I. Background

DOE published a final rule in the **Federal Register** on December 12, 2016, establishing a test procedure for UPSs as an addition to the existing test

procedure for battery chargers at title 10 of the Code of Federal Regulations ("CFR"), part 430, subpart B, appendix Y ("appendix Y"). 81 FR 89806. Since publication of the final rule, DOE identified an error in the regulatory text for the UPS test procedure. The regulatory text in section 4.2.1 "General Setup" of appendix Y requires the tester to "configure the UPS according to Annex J.2 of IEC 62040-3 Ed. 2.0," then states in paragraph (a) of that section: "If the UPS can operate in two or more distinct normal modes as more than one UPS architecture, conduct the test in its lowest input dependency as well as in its highest input dependency mode where VFD represents the lowest possible input dependency, followed by VI and then VFI." However, the text in paragraph (a) erroneously identifies VFD as the lowest input dependency, whereas it is in fact the highest input dependency as identified in the referenced Annex J.2 of IEC 62040-3.

II. Need for Correction

As published, the regulatory text in the December 2016 final rule may result in confusion as to the identified input dependency modes for the purposes of product testing in accordance with appendix Y and certifications of compliance with energy conservation standards for UPSs in accordance with 10 CFR 429.39. The current regulatory text is also in conflict with the referenced industry test procedure. Because this final rule would simply correct an error in the text without making substantive changes in the December 2016 final rule, the changes addressed in this document are technical in nature.

III. Procedural Issues and Regulatory Review

DOE has concluded that the determinations made pursuant to the various procedural requirements applicable to the December 2016 final rule remain unchanged for this final rule technical correction. These determinations are set forth in the December 2020 final rule. 81 FR 89806, 89818.

Pursuant to the Administrative Procedure Act, 5 U.S.C. 553(b)(3)(B), DOE finds that there is good cause to not issue a separate notice to solicit public comment on the changes contained in this document. Issuing a separate notice to solicit public

comment would be impracticable, unnecessary, and contrary to the public interest. Neither the errors nor the corrections in this document affect the substance of the December 2016 final rule or any of the conclusions reached in support of the final rule. Providing prior notice and an opportunity for public comment on correcting objective, typographical errors that do not change the substance of the test procedure serves no useful purpose.

Further, this rule correcting a regulatory text error makes non-substantive changes to the test procedure. As such, this rule is not subject to the 30-day delay in effective date requirement of 5 U.S.C. 553(d) otherwise applicable to rules that make substantive changes.

List of Subjects in 10 CFR Part 430

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Imports, Intergovernmental relations, Small businesses.

Signing Authority

This document of the Department of Energy was signed on May 5, 2022, by Kelly J. Speakes-Backman, Principal Deputy 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 May 6, 2022.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

For the reasons stated in the preamble, DOE corrects part 430 of chapter II, subchapter D, of title 10 of the Code of Federal Regulations by making the following correcting amendment:

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

■ 1. The authority citation for part 430 continues to read as follows:

Authority: 42 U.S.C. 6291–6309; 28 U.S.C. 2461 note.

■ 2. Appendix Y to subpart B of part 430 is amended by revising section 4.2.1(a) to read as follows:

Appendix Y to Subpart B of Part 430—Uniform Test Method for Measuring the Energy Consumption of Battery Chargers

* * * * *

4.2. * * *

4.2.1. * * *

* * * * *

(a) *UPS Operating Mode Conditions.* If the UPS can operate in two or more distinct normal modes as more than one UPS architecture, conduct the test in its lowest input dependency as well as in its highest input dependency mode where VFD represents the highest possible input dependency, followed by VI and then VFI.

* * * * *

[FR Doc. 2022–10083 Filed 5–10–22; 8:45 am]

BILLING CODE 6450–01–P

SMALL BUSINESS ADMINISTRATION

13 CFR Parts 107, 120, 142, and 146

RIN 3245–AH81

Civil Monetary Penalties Inflation Adjustments

AGENCY: U.S. Small Business Administration.

ACTION: Final rule.

SUMMARY: The Small Business Administration (SBA) is amending its regulations to adjust for inflation the amount of certain civil monetary penalties that are within the jurisdiction of the agency. These adjustments comply with the requirement in the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, to make annual adjustments to the penalties.

DATES: This rule is effective May 11, 2022.

FOR FURTHER INFORMATION CONTACT: Arlene Embrey, 202–205–6976 or at arlene.embrey@sba.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On November 2, 2015, the Federal Civil Penalties Inflation Adjustment Act

Improvements Act of 2015 (the 2015 Inflation Adjustment Act), Public Law 114–74, 129 Stat. 584, was enacted. This act amended the Federal Civil Penalties Inflation Adjustment Act of 1990, Public Law 101–410, 104 Stat. 890 (the 1990 Inflation Adjustment Act), to improve the effectiveness of civil monetary penalties and to maintain their deterrent effect. The 2015 Inflation Adjustment Act required agencies to issue a final rule by August 1, 2016, to adjust the level of civil monetary penalties with an initial “catch-up” adjustment and to annually adjust these monetary penalties for inflation by January 15 of each subsequent year.

Based on the definition of a “civil monetary penalty” in the 1990 Inflation Adjustment Act, agencies are to make adjustments only to the civil penalties that (i) are for a specific monetary amount as provided by federal law or have a maximum amount provided for by federal law; (ii) are assessed or enforced by an agency; and (iii) are enforced or assessed in an administrative proceeding or a civil action in the Federal courts. Therefore, penalties that are stated as a percentage of an indeterminate amount or as a function of a violation (penalties that encompass actual damages incurred) are not to be adjusted.

SBA published in the **Federal Register** an interim final rule with its initial adjustments to the civil monetary penalties, including an initial “catch-up” adjustment, on May 19, 2016, (81 FR 31489) with an effective date of August 1, 2016. SBA published its first annual adjustments to the monetary penalties on February 9, 2017 (82 FR 9967), with an immediate effective date. SBA published its subsequent annual adjustments for 2018 on February 21, 2018 (83 FR 7361), for 2019 on April 1, 2019 (84 FR 12059), for 2020 on March 10, 2020 (85 FR 13725), and for 2021 on September 24, 2021 (86 FR 52955), all with immediate effective dates. This rule will establish the adjusted penalty amounts for 2022 with an immediate effective date upon publication.

On December 15, 2021, the Office of Management and Budget (OMB) published its annual guidance memorandum for 2022 civil monetary penalties inflation adjustments (M–22–07, Implementation of Penalty Inflation Adjustments for 2022, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015). The memorandum provides the formula for calculating the annual adjustments based on the Consumer Price Index for all Urban Consumers (CPI–U) for the month of October preceding the adjustment, and

specifically on the change between the October CPI–U preceding the date of adjustment and the prior year’s CPI–U. Based on this methodology, the 2022 civil monetary penalty inflation adjustment factor is 1.06222 (October 2021 CPI–U (276.589)/October 2020 CPI–U (260.388)). The annual adjustment amounts identified in this rule were obtained by applying this multiplier of 1.06222 to those penalty amounts that were published in SBA’s 2021 adjustments to civil monetary penalties at 86 FR 52955 (September 24, 2021).

II. Civil Money Penalties Adjusted by This Rule

This rule adjusts civil monetary penalties authorized by the Small Business Act, the Small Business Investment Act of 1958 (SBIAct), the Program Fraud Civil Remedies Act, and the Byrd Amendment to the Federal Regulation of Lobbying Act. These penalties and the implementing regulations are discussed below.

1. 13 CFR 107.665—Civil Penalties

SBA licenses, regulates, and provides financial assistance to financial entities called small business investment companies (SBICs). Pursuant to section 315 of the SBIAct, 15 U.S.C. 687g, SBA may impose a penalty on any SBIC for each day that it fails to comply with SBA’s regulations or directives governing the filing of regular or special reports. The penalty for non-compliance is incorporated in § 107.665 of the SBIC program regulations.

This rule amends § 107.665 to adjust the current civil penalty from \$274 to \$291 per day of failure to file. The current civil penalty of \$274 was multiplied by the multiplier of 1.06222 to reach a product of \$291, rounded to the nearest dollar.

2. 13 CFR 120.465—Civil Penalty for Late Submission of Required Reports

According to the regulations at § 120.465, any SBA Supervised Lender, as defined in 13 CFR 120.10, that violates a regulation or written directive issued by the SBA Administrator regarding the filing of any regular or special report is subject to the civil penalty amount stated in § 120.465(b) for each day the company fails to file the report, unless the SBA Supervised Lender can show that there is reasonable cause for its failure to file. This penalty is authorized by section 23(j)(1) of the Small Business Act, 15 U.S.C. 650(j)(1).

This rule amends § 120.465(b) to adjust the current civil penalty to \$7,244 per day of failure to file from \$6,820 per day of failure to file. The current civil