maintain, and test scales according to the requirements of the 2009 edition of NIST Handbook 44, and use scales that are in good condition and equipped with a printing device to record weight values. Since regulated entities are required under State law to comply with NIST Handbook 44, there are no new costs or burden to comply.

Executive Order 12866 and Regulatory Flexibility Act

The Office of Management and Budget (OMB) has designated this rule as not significant for the purposes of Executive Order 12866.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), GIPSA has considered the economic impact of this action on small entities. The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened.

The Small Business Administration (SBA) defines small businesses by their North American Industry Classification System Codes (NAICS).[1] This final rule affects swine contractors, most of which are either slaughterers or processors of swine with more than 500 employees (NAICS code 311611), or are producers with more than $750,000 in annual sales (NAICS code 112210), and do not meet the applicable size standards for small entities under the Small Business Act (13 CFR 121.201). Therefore, we have determined that this final rule will not have a significant economic impact on a substantial number of small entities as defined in the RFA and are not providing an initial regulatory flexibility analysis.

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. These actions are not intended to have retroactive effect. This final rule will not pre-empt state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures that must be exhausted prior to any judicial challenge to the provisions of this final rule.

Paperwork Reduction Act

This final rule does not contain new or amended information collection requirements subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). It does not involve collection of new or additional information by the federal government.

E-Government Act Compliance

GIPSA is committed to complying with the E-Government Act, to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

List of Subjects in 9 CFR Part 201

Swine, Hogs, Livestock, Measurement standards, Incorporation by reference.

■ For the reasons set forth in the preamble, we amend 9 CFR part 201 to read as follows:

PART 201—REGULATIONS UNDER THE PACKERS AND STOCKYARDS ACT

■ 1. The authority citation for part 201 continues to read as follows:

Authority: 7 U.S.C. 181–229c.

■ 2. In § 201.71, paragraphs (a), (b) and (d) are revised to read as follows:

§ 201.71 Scales; accurate weights, repairs, adjustments or replacements after inspection.

(a) All scales used by stockyard owners, swine contractors, market agencies, dealers, packers, and live poultry dealers to weigh livestock, livestock carcasses, live poultry, or feed for the purposes of purchase, sale, acquisition, payment, or settlement shall be installed, maintained, and operated to ensure accurate weights. Such scales shall meet applicable requirements contained in the General Code, Scales Code, and Weights Code of the 2009 edition of the National Institute of Standards and Technology (NIST) Handbook 44, ''Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices,'' which is hereby incorporated by reference. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. These materials are incorporated as they exist on the date of approval and a notice of any change in these materials will be published in the **Federal Register**. All approved material is available for inspection at the National Archives and Records Administration (NARA). For more information on the availability of this material at NARA, call 202–741–6030 or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.* Also, it is available for inspection at USDA, GIPSA, P&SP, 1400 Independence Ave., SW., Washington, DC 20250, (202) 720–7363. The handbook is for sale by the National Conference of Weights & Measures (NCWM), 1135 M Street, Suite-110, Lincoln, Nebraska, 68508. Information on these materials may be obtained from NCWM by calling 402–434–4880, by e-mailing *nfo@ncwm.net,* or on the Internet at *http://www.nist.gov/owm.*

(b) All scales used by stockyard owners, swine contractors, market agencies, dealers, packers, and live poultry dealers to weigh livestock, livestock carcasses, live poultry, or feed for the purpose of purchase, sale, acquisition, payment, or settlement of livestock or live poultry and all scales used for the purchase, sale acquisition, payment, or settlement of livestock on a carcass weight basis shall be equipped with a printing device which shall record weight values on a scale ticket or other document.

* * * * *

(d) No scales shall be operated or used by any stockyard owners, swine contractors, market agencies, dealers, packers, or live poultry dealers to weigh livestock, livestock carcasses, live poultry, or feed for the purposes of purchase, sale, acquisition, payment, or settlement of livestock, livestock carcasses or live poultry unless it has been found upon test and inspection, as specified in § 201.72, to be in a condition to give accurate weight. If a scale is inspected or tested and adjustments or replacements are made to a scale, it shall not be used until it has been inspected and tested and determined to meet all accuracy requirements specified in the regulations in this section.

Alan R. Christian,

Acting Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. E9–25040 Filed 10–19–09; 8:45 am]

BILLING CODE 3410–KD–P

[1] See: *http://www.sba.gov/idc/groups/public/documents/sba_homepage/serv_sstd_tablepdf.pdf.*

DEPARTMENT OF ENERGY

10 CFR Part 430

[Docket No. EERE–2009–BT–TP–0020]

RIN 1904–AC09

Energy Conservation Program: Repeal of Test Procedures for Televisions

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

ACTION: Final rule.

SUMMARY: The U.S. Department of Energy (DOE) repeals the regulatory

provisions establishing the test procedure for televisions under the Energy Policy and Conservation Act (EPCA). The test procedure has been made obsolete by the transition from analog to digital television in the United States, effective June 13, 2009.

DATES: *Effective Date:* This rule is effective October 20, 2009.

ADDRESSES: The public may review copies of all materials related to this rulemaking at the U.S. Department of Energy, Resource Room of the Building Technologies Program, 950 L'Enfant Plaza, SW., Suite 600, Washington, DC (202) 586–2945, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Please call Ms. Brenda Edwards at the above telephone number for additional information regarding visiting the Resource Room.

FOR FURTHER INFORMATION CONTACT: Ron Lewis, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, EE–2J, 950 L'Enfant Plaza, SW., Room 6057, Washington, DC 20585–0121, (202) 586–8423, e-mail: *Ronald.Lewis@ee.doe.gov*.

Eric Stas, Esq., GC–72, U.S. Department of Energy, Office of General Counsel, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–5827, e-mail: *Eric.Stas@hq.doe.gov*.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Authority and Background

Title III of the Energy Policy and Conservation Act (42 U.S.C. 6291 *et seq.*; EPCA) sets forth a variety of provisions designed to improve energy efficiency. Part A [1] of title III (42 U.S.C. 6291–6309) establishes the ''Energy Conservation Program for Consumer Products Other Than Automobiles.'' The consumer products subject to this program (hereafter ''covered products'') include televisions. Under EPCA, the overall program consists essentially of testing, labeling, and Federal energy conservation standards.

Section 323 of EPCA (42 U.S.C. 6293) sets forth generally applicable criteria and procedures for DOE's adoption and amendment of test procedures. It states, for example, that ''[a]ny test procedures prescribed or amended under this section shall be reasonably designed to produce test results which measure energy efficiency, energy use, * * * or estimated annual operating cost of a covered product during a representative average use cycle or period of use, as determined by the Secretary [of Energy], and shall not be unduly burdensome to conduct.'' (42 U.S.C. 6293(b)(3)) Manufacturers of covered products must use test procedures prescribed under EPCA as the basis for establishing and certifying to DOE that their products comply with energy conservation standards adopted under EPCA. (42 U.S.C. 6295(s))

EPCA also specifies that State law providing for the disclosure of information with respect to any measure of energy consumption is superseded to the extent that such law requires testing or the use of any measure of energy consumption or energy descriptor in any manner other than provided under section 323 of EPCA. (42 U.S.C. 6297(a)(1)(A); 42 U.S.C. 6297(f)(3)(G)) Therefore, in the absence of a Federal test procedure or accompanying conservation standard, States may prescribe their own test procedures and standards pursuant to applicable State law. *Id.*

II. Discussion

The existing test procedure to measure the energy efficiency of television sets is codified at 10 CFR 430.23(h) and 10 CFR Subpart B, Appendix H, and the sampling plan, that is, the specific requirements for the number of units to be tested, is set forth at 10 CFR 430.24(h).

The existing test procedure is appropriate for measuring the energy efficiency of only analog television sets. In the Digital Television Transition and Public Safety Act of 2005, 47 U.S.C. 309 note, as amended by the DTV Delay Act of 2009, 47 U.S.C. 609 note, Congress directed the Federal Communications Commission to terminate all licenses for full-power television stations in the analog television service, and to require the cessation of broadcasting by full-power stations in the analog television service, by June 13, 2009. Given that the June 2009 deadline set by Congress for the transition to digital television has passed, the existing test procedure and sampling plan are obsolete.

Regulatory definitions of ''television set'', ''color television set'', and ''monochrome television set'' are set forth at 10 CFR 430.2. ''Television set'' is defined simply as ''a color television set or a monochrome television set''. ''Color television set'' is defined as ''an electrical device designed to convert incoming broadcast signals into color television pictures and associated sound'', and ''monochrome television set'' is defined as ''an electrical device designed to convert incoming broadcast signals into monochrome television pictures and associated sound''. The definitions are not affected by the transition from analog to digital television in the United States because the broadcast signals they reference encompass both analog and digital signals.

The Department of Energy received petitions from the California Energy Commission (Commission or CEC) and the Consumer Electronics Association (CEA) related to the existing television test procedure. The Commission petitioned for repeal of the regulatory provisions establishing the test procedure and defining ''television set''. CEA petitioned for replacement of the existing test procedure with the test procedure adopted by the International Electrochemical Commission, IEC 62087–2008(E), published in September 2008.

In response to these petitions, and as a result of the transition to digital television discussed above, DOE is repealing the existing television test procedure and the regulatory provision specifying requirements for the number of units to be tested pursuant to the test procedure (*i.e.*, the sampling plan). DOE will maintain the regulatory definitions because they continue to be appropriate notwithstanding the transition to digital television, and because television sets are listed as a covered product in EPCA. (42 U.S.C. 6292(12))

DOE will soon begin a rulemaking process to establish a new Federal test procedure and a new Federal energy-efficiency standard for televisions. In establishing a new test procedure, DOE will give serious consideration to the suggestion made by CEA that DOE adopt IEC 62087–2008(E).

III. Procedural Requirements

A. Executive Order 12866

Today's regulatory action is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866,

[1] This part was originally titled Part B; however, it was redesignated Part A after Part B was repealed by Public Law 109–58.

''Regulatory Planning and Review,'' 58 FR 51735 (October 4, 1993). Accordingly, this action was not subject to review under that Executive Order by the Office of Information and Regulatory Affairs (OIRA) of the Office of Management and Budget (OMB).

B. Administrative Procedure Act

The Department of Energy finds good cause to waive notice and comment on these regulations pursuant to 5 U.S.C. 533(b)(B), and the 30-day delay in effective date pursuant to 5 U.S.C. 553(d). Notice and comment are unnecessary and contrary to the public interest because this final rule is repealing a test procedure that has been made obsolete by act of Congress. A delay in effective date is unnecessary and contrary to the public interest for these same reasons. Therefore, these regulations are being published as final regulations and are effective October 20, 2009.

C. National Environmental Policy Act

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. This rule amends an existing rule without changing its environmental effect, and, therefore, is covered by the Categorical Exclusion A5 found in appendix A to subpart D, 10 CFR part 1021. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis for any rule that must be proposed for public comment, unless the agency certifies that the rule will have no 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 rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel's Web site at *http://www.gc.doe.gov*. Because a notice of proposed rulemaking is not required under the Administrative Procedure Act or other applicable law, the Regulatory Flexibility Act does not require certification or the conduct of a regulatory flexibility analysis for this rule.

E. Paperwork Reduction Act

This rulemaking imposes no new information or recordkeeping requirements. Accordingly, OMB clearance is not required under the Paperwork Reduction Act. (44 U.S.C. 3501 *et seq.*)

F. Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. For proposed regulatory actions likely to result in a rule that may cause expenditures by State, local, and Tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish estimates of 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.'' UMRA also requires an agency plan for giving notice and opportunity for timely input to small governments that may be affected before establishing a requirement that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA (62 FR 12820) (also available at *http://www.gc.doe.gov*). Today's final 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.

G. 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. Today's rule would have no impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is unnecessary to prepare a Family Policymaking Assessment.

H. 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. DOE has examined this final rule and determined that it would not preempt State law and would have no 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. Executive Order 13132 requires no further action.

I. Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' 61 FR 4729 (February 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. Regarding the review required by section 3(a), 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 rule meets the relevant standards of Executive Order 12988.

J. Treasury and General Government Appropriations Act, 2001

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 (February 22, 2002), and DOE's guidelines were published at 67 FR 62446 (October 7, 2002). DOE has reviewed today's notice under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. 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 proposed significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgated or is expected to lead to promulgation 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 proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use. Today's regulatory action is not a significant regulatory action under Executive Order 12866 or any successor order; would not have a significant adverse effect on the supply, distribution, or use of energy; and has not been designated by the Administrator of OIRA as a significant energy action. Accordingly, DOE has not prepared a Statement of Energy Effects.

L. Executive Order 12630

Pursuant to Executive Order 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights,'' 53 FR 8859 (March 15, 1988), DOE has determined that this rule would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

M. Section 32 of the Federal Energy Administration Act of 1974

Under section 301 of the Department of Energy Organization Act (Pub. L. 95–91), the Department of Energy must comply with section 32 of the Federal Energy Administration Act of 1974 (Pub. L. 93–275), as amended by the Federal Energy Administration Authorization Act of 1977 (Pub. L. 95–70). (15 U.S.C. 788) Section 32 provides that where a proposed rule authorizes or requires use of commercial standards, the notice of proposed rulemaking must inform the public of the use and background of such standards. In addition, section 32(c) requires DOE to consult with the Department of Justice and the Federal Trade Commission concerning the impact of the commercial or industry standards on competition. This final rule to repeal the test procedure for determining the energy efficiency of television sets does not authorize or require the use of any commercial standards. Therefore, no consultation with either DOJ or FTC is required.

N. Congressional Notification

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of today's rule before 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 in 10 CFR Part 430

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

Issued in Washington, DC, on October 2, 2009.

Henry Kelly,

Principal Deputy Assistant Secretary, Energy Efficiency and Renewable Energy.

■ For the reasons stated in the preamble, part 430 of chapter II of title 10, Code of Federal Regulations, is amended as set forth below:

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.

§ 430.23 [Amended]

■ 2. Section 430.23 is amended by removing and reserving paragraph (h).

§ 430.24 [Amended]

■ 3. Section 430.24 is amended by removing and reserving paragraph (h).

Appendix H [Removed and Reserved]

■ 4. Appendix H to subpart B of part 430 is removed and reserved.

[FR Doc. E9–25170 Filed 10–19–09; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 61, 91, and 141

[Docket No. FAA–2006–26661; Amendment Nos. 61–124A, 91–309A, and 141–12A]

RIN 2120–AI86

Pilot, Flight Instructor, and Pilot School Certification; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: The Federal Aviation Administration (FAA) is making several corrections to its ''Pilot, Flight Instructor, and Pilot School Certification'' final rule published in the **Federal Register** on August 21, 2009. The FAA corrections include standardizing certain part 61 time period durations from ''60 days'' to now read ''2 calendar months.'' We are also correcting an omission and errors to the prerequisite eligibility requirements for use of flight simulators. Additionally, we are correcting the duration of a student pilot certificate to 60 calendar months for a student pilot seeking a sport pilot certificate. Finally, we are correcting a sentence in the preamble to conform with the final rule regarding the use of flight training devices.

DATES: These corrections are effective on October 20, 2009.

FOR FURTHER INFORMATION CONTACT: John D. Lynch, Certification and General Aviation Operations Branch, AFS–810, General Aviation and Commercial Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3844; e-mail to *john.d.lynch@faa.gov*.

For legal interpretative questions about this final rule, contact: Michael Chase, AGC–240, Office of Chief Counsel, Regulations Division, Federal