

unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

#### Regulatory Flexibility Act and Information Collection

The Administrator, Grain Inspection, Packers and Stockyards Administration (GIPSA) has determined that this action will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act, Pub. L. 96-345 (5 U.S.C. 601). Section 1324 of the Food Security Act of 1985 (Pub. L. 99-198 (7 U.S.C. 1631)) (hereinafter "the Act") was amended by section 662 of the Federal Agriculture Improvement and Reform Act of 1996 (hereinafter "the Statute"). Section 662 of the Statute provides an alternative means of filing effective financing statements. Therefore, small entities can choose the filing option that best meets their needs. If any cost would be incurred by filing electronically, filing paper documents is still acceptable. Therefore, the Administrator has determined that this rule will not have a significant economic impact on a substantial number of small entities.

In compliance with the Paperwork Reduction Act of 1980 (44 U.S.C. 35), the previously approved information collection and recordkeeping requirements for 9 CFR Part 205 have been previously approved by the Office of Management and Budget under control number 0590-0004.

#### List of Subjects in 9 CFR Part 205

Agricultural commodities, Archives and records, Reporting and recordkeeping requirements.

For reasons set out in the preamble, 9 CFR Part 205 is amended as set forth below.

#### PART 205—CLEAR TITLE— PROTECTION FOR PURCHASERS OF FARM PRODUCTS

1. The authority citation for Part 205 is revised to read as follows:

Authority: Section 1324(f), Pub. L. 99-198, 99 Stat. 1535, 7 U.S.C. 1631; 7 CFR 2.17 (e)(3), 2.56(a)(3), as amended June 17, 1986, 51 FR 22795; Sections 662 and 663, Pub. L. 104-127.

2. Section 205.101 is amended by revising paragraph (b)(11)(iii) and adding paragraph (e) to read as follows:

#### § 205.101 Certification-request and processing.

\* \* \* \* \*

(b) \* \* \*

(11) \* \* \*

(iii) All printed and electronic forms required to be used in connection with the system.

(c) \* \* \*

(d) \* \* \*

(e) To make changes to an existing certified central filing system, including changes necessitated or made possible by amendments to the Act, a written request to amend the existing certified central filing system must be filed together with such documents as are necessary to show that the system complies with the Act. The request must contain relevant new information consistent with the requirements specified elsewhere in this section.

3. Section 205.105 is amended by revising paragraph (b) to read as follows:

#### § 205.105 Master list and portion thereof distributed to registrants—format.

\* \* \* \* \*

(b) Section (c)(2)(E) requires the portion to be distributed in "written or printed form." This means recording on paper by any technology in a form that can be read by humans without special equipment. The system may, however, honor requests from registrants to substitute recordings on any medium by any technology including, but not limited to, electronic recording on tapes or discs in machine-readable form, and on photographic recording on microfiche. It also includes, if requested by registrants, electronic transmissions whereby registrants can print their own paper copies.

\* \* \* \* \*

4. Section 205.202 is amended by revising paragraphs (b) and (c) to read as follows:

#### § 205.202 "Effective financing statement" or EFS.

\* \* \* \* \*

(b) An EFS may be filed electronically provided a State allows electronic filing of financing statements without the signature of the debtor under applicable State law under provisions of the Uniform Commercial Code or may be a paper document. An electronically filed EFS need not be a paper document and need not be signed. If an original or reproduced paper document of an EFS is filed with the State, it must be signed by both the secured party and the debtor, and be filed by the secured party.

(c) Countermeasures against mishandling after filing, such as a requirement that a copy be date stamped and returned to the secured party, are discretionary with the State. If a State chooses to adopt such countermeasures, it is responsible for establishing procedures for recording the date and

time when an EFS is received, and for meeting all legal requirements associated with filing and distributing information about security interests as required by § 205.101.

5. Section 205.209 is amended by revising paragraph (c) to read as follows:

#### § 205.209 Amendment or continuation of EFS.

\* \* \* \* \*

(c) The amendment must be filed in the same manner as the original filing. Note the requirement of section (c)(4)(E). The amendment may be filed electronically provided a State allows electronic filing of financing statements without the signature of the debtor under applicable State law under provisions of the Uniform Commercial Code. An electronically filed amendment need not be signed. However, if an original or reproduced paper document is filed, the amendment must be signed by the secured party and the debtor, and be filed by the secured party.

\* \* \* \* \*

Dated: October 16, 1996.

David R. Shipman,

*Acting Administrator, Grain Inspection,  
Packers and Stockyards Administration.*

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## FARM CREDIT ADMINISTRATION

### 12 CFR Part 622

#### RIN 3052-AB74

#### Rules of Practice and Procedure; Adjusting Civil Money Penalties for Inflation

**AGENCY:** Farm Credit Administration.

**ACTION:** Final rule.

**SUMMARY:** As required by the Debt Collection Improvement Act of 1996 (DCIA), the Farm Credit Administration (FCA) through the FCA Board (Board) adopts a final regulation that adjusts each civil money penalty (CMP) under its jurisdiction by the rate of inflation using the formula prescribed by DCIA. This statute requires all Federal agencies to adjust each CMP by the rate of inflation and promulgate implementing regulations within 180 days after enactment of DCIA and at least once every 4 years thereafter. Any increase in a CMP shall apply only to violations that occur after the effective date of this regulation.

**EFFECTIVE DATE:** October 23, 1996.

**FOR FURTHER INFORMATION CONTACT:**

Robert Child, Policy Analyst, Office of Policy Development and Risk Control, Farm Credit Administration, McLean, VA 22102-5090, (703) 883-4498, TDD (703) 883-4444; or

Richard Katz, Senior Attorney, Office of General Counsel, Farm Credit Administration, McLean, VA 22102-5090, (703) 883-4020, TDD (703) 883-4444.

**SUPPLEMENTARY INFORMATION:** DCIA<sup>1</sup> amended the Federal Civil Monetary Penalties Inflation Adjustment Act of 1990<sup>2</sup> (FCMPIA Act) to require every Federal agency to enact regulations that adjust each CMP<sup>3</sup> provided by law under its jurisdiction by the rate of inflation pursuant to the inflation adjustment formula in section 5(b) of the FCMPIA Act. Each Federal agency is required to issue these implementing regulations by October 23, 1996, which is 180 days after the date that DCIA was enacted, and at least once every 4 years thereafter. Section 7 of the amended FCMPIA Act specifies that only CMPs for violations that occur after October 23, 1996, will be adjusted for inflation.

The inflation adjustment is based on the percentage increase in the Consumer Price Index (CPI)<sup>4</sup> for the period from June of the calendar year when the CMP was last set until June of the calendar year preceding the adjustment.

Furthermore, each CMP that has been adjusted for inflation must be rounded to a number prescribed by section 5(a) of the FCMPIA Act.<sup>5</sup> Another provision of the DCIA limits the first adjustment of a CMP to an amount not in excess of 10 percent of the original penalty. The amount of increase in the final regulation would have been more if this limit did not exist.

Two provisions of section 5.32(a) of the Farm Credit Act of 1971, as amended (Act) authorize the FCA to impose CMPs on Farm Credit System (FCS) institutions and their related parties. First, section 5.32(a) specifies

that any FCS institution or any officer, director, employee, agent, or other person participating in the conduct of the affairs of an institution who violates the terms of a temporary or permanent cease and desist order that has become final shall forfeit not more than \$1,000 per day for each day during which such violation continues. This same statutory provision also states that "[a]ny such institution or person who violates any provision of this Act or any regulation issued under this Act shall forfeit and pay a civil penalty of not more than \$500 per day for each day during which such violation continues."

After the adjustment for inflation, the maximum penalty that the FCA can impose under section 5.32(a) of the Act for the violation of a cease and desist order is \$1,100 per day. When the same inflation adjustment formula is applied to the CMP that section 5.32(a) imposes on FCS institutions and their affiliated parties for violations of the Act or regulation, the new maximum penalty amount is \$550 per day. The FCA now adopts final § 622.61 which adjusts these two CMPs to the rate of inflation, as required by the DCIA.

DCIA provides Federal agencies with no discretion in the adjustment of CMPs to the rate of inflation, and it also requires the new regulation to take effect on October 23, 1996. Moreover, the regulation that the FCA adopts today to implement DCIA is ministerial, minor, technical, and noncontroversial. For these reasons, the FCA finds good cause to determine that public notice and comment for this new regulation is unnecessary, impractical, and contrary to the public interest, pursuant to the Administrative Procedure Act (APA), 5 U.S.C. 553(a)(3)(B). These same reasons also provide the FCA with good cause to adopt an effective date for this regulation that is less than 30 days after the date of publication in the Federal Register. Furthermore, the FCA determines that pursuant to the requirements of section 5.17(c)(2) of the Act this regulation shall take effect prior to the expiration of the 30-day Congressional waiting period for final FCA regulatory action due to the Congressionally mandated effective date of October 23, 1996.

#### List of Subjects in 12 CFR Part 622

Administrative practice and procedure, Crime, Investigations, Penalties.

For the reasons stated in the preamble, part 622 of chapter VI, title 12 of the Code of Federal Regulations are amended to read as follows:

## PART 622—RULES OF PRACTICE AND PROCEDURE

1. The authority citation for part 622 is revised to read as follows:

Authority: Secs. 5.9, 5.10, 5.17, 5.25-5.37 of the Farm Credit Act (12 U.S.C. 2243, 2244, 2252, 2261-2273); Pub. L. 104-134, sec. 31001(s), 110 Stat. 1321-358.

### Subpart B—Rules and Procedures for Assessment and Collection of Civil Money Penalties

2. Subpart B is amended by adding a new § 622.61 to read as follows:

#### § 622.61 Adjustment of civil money penalties by the rate of inflation pursuant to section 31001(s) of the Debt Collection Improvement Act of 1996.

(a) A civil money penalty imposed pursuant to section 5.32 of the Act for a violation occurring after October 23, 1996 of a final cease and desist order issued under section 5.25 or 5.26 of the Act shall not exceed \$1,100 per day for each day the violation continues.

(b) A civil money penalty imposed pursuant to section 5.32 of the Act for a violation occurring after October 23, 1996 of any provision of the Act or any regulation issued under the Act shall not exceed \$550 per day for each day the violation continues.

Dated: October 17, 1996.

Floyd Fithian,

*Secretary, Farm Credit Administration Board.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 15 CFR Part 904

[Docket No. 961004279-6279-01; I.D. 111695A]

RIN 0648-A153

### Civil Enforcement Proceedings: Opportunity for an In-Person Hearing

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Final rule.

**SUMMARY:** NOAA is amending procedural regulations that govern civil administrative enforcement proceedings that it conducts. Necessitated by the Oceans Act of 1992, these regulatory amendments ensure the opportunity for an in-person hearing in administrative enforcement proceedings conducted by NOAA.

<sup>1</sup> Pub. L. 104-134, section 31001(s), 110 Stat. 1321-358, (Apr. 26, 1996). This provision is codified at 28 U.S.C. 2461 *note*.

<sup>2</sup> Pub. L. 101-410, 104 Stat. 890, (Oct. 5, 1990).

<sup>3</sup> Section 3(2) of the amended FCMPIA Act defines a CMP as any penalty, fine, or other sanction that: (1) Either is for a specific monetary amount as provided by Federal law or has a maximum amount provided for by Federal law; (2) is assessed or enforced by an agency pursuant to Federal law; and (3) is assessed or enforced pursuant to an administrative proceeding or a civil action in the Federal courts.

<sup>4</sup> The CPI is published by the Department of Labor, Bureau of Statistics.

<sup>5</sup> For example, an increase that is less than a hundred dollars would be rounded to the nearest multiple of \$10, and an increase over \$100 but less than \$1,000 would be rounded to the nearest multiple of \$100.