

Accordingly, 9 CFR part 78 is amended as follows:

PART 78—BRUCELLOSIS

1. The authority citation for part 78 continues to read as follows:

Authority: 21 U.S.C. 111–114a-1, 114g, 115, 117, 120, 121, 123–126, 134b, and 134f; 7 CFR 2.22, 2.80, and 371.2(d).

§ 78.41 [Amended]

2. In § 78.41, paragraph (a) is amended by adding “Louisiana,” immediately after “Indiana,”.

3. In § 78.41, paragraph (b) is amended by removing “Louisiana,”.

Done in Washington, DC, this 29th day of October 1996.

Terry L. Medley,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 96–28057 Filed 10–30–96; 8:45 am]

BILLING CODE 3410–34-P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Part 510

[96–102]

RIN 1550–AB01

Civil Monetary Penalty Inflation Adjustment

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Final rule.

SUMMARY: Congress, in the Federal Civil Monetary Penalty Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, required all federal agencies with the statutory authority to impose civil monetary penalties (CMPs) to regularly evaluate those CMPs and adjust the maximum CMPs to reflect inflation to ensure that the CMPs continue to maintain their deterrent value. Consequently, OTS is issuing this final rule to implement the required adjustments to each of OTS's CMP statutes.

EFFECTIVE DATE: October 31, 1996.

FOR FURTHER INFORMATION CONTACT: Richard Blanks, Counsel (Banking and Finance), (202) 906–7037, Chief Counsel's Office, Regulations and Legislation Division, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: The Federal Civil Monetary Penalties Inflation Adjustment Act of 1990 (FCMPIAA) ¹ provided for the regular

evaluation of CMPs ² to ensure that they continued to maintain their deterrent value and that penalty amounts due the Federal Government were properly accounted for and collected. Section 31,001(a) of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (OCRRA) sets forth the Debt Collection Improvement Act of 1996 (DCIA), ³ which was enacted to provide more effective tools for governmentwide collection of delinquent debt. More specifically, section 31,001(s)(1) of the OCRRA amended the FCMPIAA by requiring each agency to make inflationary adjustments to the CMPs found in statutes that it administers. ⁴ Such adjustments must be made by regulation published in the Federal Register. The first inflation adjustment is required by October 23, 1996—180 days after the enactment of the DCIA. Thereafter, agencies must make inflation adjustments by regulation at least once every four years. Any increase in a CMP applies only to violations that occur after the date the increase takes effect. ⁵ These increases in maximum CMPs will not necessarily affect the amount of any CMP OTS seeks in connection with a particular violation because OTS calculates particular CMPs on a case-by-case basis based upon a variety of factors (including the gravity of the violation, whether it was willful or recurring, and any harm to the depository institution). Thus, the maximums merely serve as a cap beyond which CMPs may not go.

The statute provides that the inflation adjustment shall be determined by increasing the maximum CMP for each CMP by a cost-of-living adjustment. The term “cost-of-living” adjustment is defined as the percentage for each CMP by which the Consumer Price Index (CPI) for the month of June of the calendar year preceding the adjustment exceeds the CPI for the month of June

of the calendar year in which the amount of such CMP was last set or adjusted pursuant to law. Any increase calculated under the statute must be rounded according to rounding rules set forth in the statute. Agencies do not have discretion in choosing whether to adjust a maximum CMP, by how much to adjust a maximum CMP, or the methods used to determine the adjustment.

To help explain the six-step statutorily-mandated inflation adjustment calculation, we will use the following example. Pursuant to 12 U.S.C. 1818(i), OTS may impose a daily maximum third-tier CMP not to exceed \$1,000,000 for violations of certain banking laws. The first step in the calculation requires finding the Consumer Price Index for the All Urban Consumers (CPI-U) for two different time periods. ⁶ The statute requires that the CPI-U for the year preceding the year of adjustment be used, which here, because the adjustment will occur in 1996, will be the CPI-U for June, 1995, which is 456.7. The CPI-U for June of the year the CMP was last set by law or adjusted for inflation also must be determined. Because section 1818(i) was adopted in August, 1989, the CPI-U used is June, 1989, which is 371.7.

Second, to calculate the cost of living adjustment or inflation factor, we divide the CPI-U for June of the preceding year of the adjustment by the CPI-U for June of the year the CMP was last set by law or adjusted for inflation. Using our example, the CPI for June, 1995 (456.7) divided by the CPI-U for June, 1989 (371.7) equals 1.23. Therefore, 1.23 is our inflation factor.

Third, to calculate the raw inflation adjustment, we multiply the maximum penalty amounts set by law by the inflation factor. In our example, \$1,000,000 multiplied by our inflation factor of 1.23 equals \$1,230,000.

Fourth, we have to round the raw inflation adjustment amounts according to the rounding rules set forth in the FCMPIAA. Since we round the *increased* amount, we calculate the increased amount by subtracting the original maximum penalty amounts from the raw maximum inflation adjustments. The increased amount for the maximum penalty in our example is \$1,230,000 minus \$1,000,000, which equals \$230,000. According to the rounding rules, if the penalty is greater

² Under the FCMPIAA, the term CMP means any penalty, fine, or other sanction that (1) 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. See 12 U.S.C. 2461 note. All three requirements must be met for a fine to be defined as a CMP.

³ Pub. L. 104–134 (April 26, 1996) (to be codified at 28 U.S.C. 2461 note).

⁴ Some of OTS's CMPs are in a commonly administered statute, 12 U.S.C. 1818. Each agency that administers this statute is making the identical adjustments.

⁵ We note here that while the CMP statutes of other agencies frequently provide for a minimum and maximum penalty amount, all of OTS's CMP statutes provide only for a daily maximum amount and do not contain daily minimum amounts. Today's rule therefore refers only to maximum CMPs.

⁶ The Consumer Price Index described herein was obtained from the Bureau of Labor Statistics of the Department of Labor. There are several Consumer Price Indices. The statute requires the use of the CPI-U.

¹ Pub. L. 101–410; 28 U.S.C. 2461 note.

than \$200,000, then we round the increase to the nearest multiple of \$25,000. Therefore, the maximum penalty increase for our example, after application of the rounding rules, is \$225,000.

Fifth, we find the inflation adjustment maximum penalty after rounding by adding the rounded increase to the original maximum penalty amount set by law to calculate the maximum inflation adjusted penalty amounts. In our example, \$1,000,000 plus \$225,000 yields a maximum inflation adjusted penalty amount of \$1,225,000.

Finally, the statute provides that the inflation adjustment of the maximum penalty amount cannot exceed 10% of the original maximum penalty amount. Ten percent of the original maximum penalty amount of \$1,000,000 in our example equals \$100,000. Because the increase in the maximum penalty amount cannot exceed 10% of the original maximum penalty amount, the adjusted maximum penalty amount in our example is \$1,100,000. This is the amount set forth in the regulation.

The six-step calculation just described has been applied to all of OTS's CMP statutes, and the maximum penalty amount for each statute is set out in the regulation.

Need for an Immediately Effective Final Rule

Section 553 of the Administrative Procedure Act⁷ requires separate findings for good cause, first, that notice and comment are impracticable, unnecessary, or contrary to the public interest when an agency determines to issue a rule without prior notice and comment and second, when it determines to make a rule effective

without a 30-day delay. Section 302 of the Riegle Community Development and Regulatory Improvement Act of 1994⁸ requires that a regulation that imposes new requirements take effect on the first day of the quarter following publication of the final rule. That section provides, however, that an agency may determine that the rule should take effect earlier upon a finding of good cause.

Under the statute, agencies must make the required CMP inflation adjustments (1) according to the very specific formula set forth in the statute and (2) by October 23, 1996. Agencies have no discretion either as the inflation adjustment amount or the timing of the adjustment. Due to this lack of agency discretion, the OTS believes that notice and comment are unnecessary. For these same reasons, the OTS believes that there is good cause to make this rule effective immediately upon publication.

Executive Order 12866

The Director of the OTS has determined that this final rule does not constitute a "significant regulatory action" for the purposes of Executive Order 12866.

Unfunded Mandates Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995, Public Law 104-4 (Unfunded Mandates Act), requires that an agency prepare a budgetary impact statement before promulgating a rule that includes a federal mandate that may result in expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year. If a budgetary impact statement is required, section 205 of the Unfunded Mandates Act also requires

an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. OTS has determined that the rule will not result in expenditures by state, local, or tribal governments or by the private sector of \$100 million or more. Accordingly, this rulemaking is not subject to section 202 of the Unfunded Mandates Act.

List of Subjects in 12 CFR Part 510

Administrative practice and procedure, Penalties.

Accordingly, OTS amends title 12, chapter V, part 510 of the Code of Regulations as set forth below.

PART 510—MISCELLANEOUS ORGANIZATIONAL REGULATIONS

The authority citation for part 510 is revised to read as follows:

Authority: 12 U.S.C. 1462a, 1463, 1464; Pub. L. 101-410, 104 Stat. 890; Pub. L. 104-134, 110 Stat. 1321-358.

2. Section 510.6 is added to read as follows:

§ 510.6 Civil money penalty inflation adjustment.

Pursuant to the Federal Civil Monetary Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note), as amended by the Debt Collection Improvement Act of 1996 (Pub. L. 104-134, 110 Stat. 1321-358), OTS is required to make inflationary adjustments for civil monetary penalties in statutes that it administers. The following chart displays those adjustments, as calculated pursuant to the statute:

U.S. Code citation	CMP description	New maximum amount
12 U.S.C. 1464(v)(4)	Reports of Condition—1st Tier	\$2,000
12 U.S.C. 1464(v)(5)	Reports of Condition—2nd Tier	22,000
12 U.S.C. 1464(v)(6)	Reports of Condition—3rd Tier	1,100,000
12 U.S.C. 1467(d)	Refusal to Cooperate in Exam	5,500
12 U.S.C. 1467a(i)(3)	Holding Company Act Violation	5,500
12 U.S.C. 1467a(r)(1)	Late/Inaccurate Reports—1st Tier	2,000
12 U.S.C. 1467a(r)(2)	Late/Inaccurate Reports—2nd Tier	22,000
12 U.S.C. 1467a(r)(3)	Late/Inaccurate Reports—3rd Tier	1,100,000
12 U.S.C. 1817(j)(16)(A)	Change in Control—1st Tier	5,500
12 U.S.C. 1817(j)(16)(B)	Change in Control—2nd Tier	27,500
12 U.S.C. 1817(j)(16)(C)	Change in Control—3rd Tier	1,100,000
12 U.S.C. 1818(i)(2)(A)	Violation of Law or Unsafe or Unsound Practice—1st Tier	5,500
12 U.S.C. 1818(i)(2)(B)	Violation of Law or Unsafe or or Unsound Practice—2nd Tier	27,500
12 U.S.C. 1818(i)(2)(C)	Violation of Law or Unsafe or Unsound Practice—3rd Tier	1,100,000
12 U.S.C. 3349(b)	Appraisals Violation—1st Tier	5,500
12 U.S.C. 3349(b)	Appraisals Violation—2nd Tier	27,500
12 U.S.C. 3349(b)	Appraisals Violation—3rd Tier	1,100,000
42 U.S.C. 4012a(f)	Flood Insurance	350/105,000

⁷ 5 U.S.C. 553.

⁸ 12 U.S.C. 4802.

Dated: October 22, 1996.

By the Office of Thrift Supervision.

Nicolas P. Retsinas,

Director.

[FR Doc. 96-27927 Filed 10-30-96; 8:45 am]

BILLING CODE 6720-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 95

[Docket No. 28698; Amdt. No. 399]

IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rules) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. This regulatory action is needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

EFFECTIVE DATE: 0901 UTC, December 5, 1996.

FOR FURTHER INFORMATION CONTACT:

Paul J. Best, Flight Procedures Standards Branch (AFS-420), Technical Programs Division, Flight Standards Service Federal Aviation Administration, 800 Independence

Avenue, SW., Washington, D.C. 20591; telephone: (202) 267-8277.

SUPPLEMENTARY INFORMATION: This amendment to part 95 of the Federal Aviation Regulations (14 CFR part 95) amends, suspends, or revokes IFR altitudes governing the operation of all aircraft in flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in part 95.

The Rule

The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference. The reasons and circumstances that create the need for this amendment involve matters of flight safety and operational efficiency in the National Airspace System, are related to published aeronautical charts that are essential to the user, and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment are impracticable and contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days. The FAA has determined that this regulation only involves an established

body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current.

It, therefore—(1) is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 95

Airspace, Navigation (air).

Issued in Washington, D.C. on October 25, 1996.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, part 95 of the Federal Aviation Regulations (14 CFR part 95) is amended as follows effective at 0901 UTC.

PART 95—[AMENDED]

1. The authority citation for part 95 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44719, 44721.

2. Part 95 is amended to read as follows:

BILLING CODE 4910-13-M