

	Col.	All carrier groups and entities
C-1	110	Revenue passengers enplaned.

(8) *130 Revenue passengers transported.* The total number of revenue passengers transported over single flight stage, including those already on board the aircraft from a previous flight stage. Report only the total revenue passengers transported in item 130. For all air carriers and all entities, item 130 revenue passengers transported is reported on Form 41 Schedule T-100 in Column B-7, as follows:

	Col.	All carrier groups and entities
B-7	130	Revenue passengers transported.

* * * * *

(18) *310 Available seats.* The number of seats available for sale. This figure reflects the actual number of seats available, excluding those blocked for safety or operational reasons. Report the total available seats in item 310. For all air carriers and all entities, item 310 available seats, total is reported on Form 41 Schedule T-100 in column B-4, as follows.

	Col.	All carrier groups and entities
B-4	310	Available seats, total.

* * * * *

3. In Section 19-6 paragraph (b) introductory text is revised to read as follows:

Section 19-6 Public Disclosure of Traffic Data

* * * * *

(b) Detailed international on-flight market and nonstop segment data in Schedule T-100 and Schedule T-100(f) reports shall be publicly available immediately following the Department's determination that the database is complete, but no earlier than six months after the date of the data. Data for on-flight markets and nonstop segments involving no U.S. points shall not be made publicly available for three years. Industry and carrier summary data may be made public before the end of six months or the end of three years, as applicable, provided there are three or more carriers in the summary data disclosed. The Department may, at any time, publish international summary statistics without carrier detail. Further, the Department may release nonstop segment and on-flight market detail data

by carrier before the end of the confidentiality periods as follows:

* * * * *

Issued in Washington, DC on February 6, 1997.

Charles A. Hunnicutt,
Assistant Secretary for Aviation and International Affairs.

[FR Doc. 97-3576 Filed 2-12-97; 8:45 am]

BILLING CODE 4910-62-P

14 CFR Part 383

49 CFR Part 31

[OST Docket No. OST-97-2116]

RIN 2105-AC63

Program Fraud Civil Remedies; Civil Penalties

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: In accordance with Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, this final rule incorporates the penalty inflation adjustments for civil money penalties imposed by the Office of the Secretary of Transportation.

EFFECTIVE DATE: This rule is effective on March 17, 1997.

FOR FURTHER INFORMATION CONTACT:

Mark A. Holmstrup, Senior Trial Attorney, Office of Aviation Enforcement and Proceedings (C-70), Department of Transportation, 400 Seventh Street, S.W., Washington, D.C. 20590, (202) 366-9349.

SUPPLEMENTARY INFORMATION:

I. The Debt Collection Improvement Act of 1996

In an effort to maintain the remedial impact of civil money penalties (CMPs) and promote compliance with the law, the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101-410) was amended by the Debt Collection Improvement Act of 1996 (Pub.L. 104-134, section 31001) to require Federal agencies to regularly adjust certain CMPs for inflation. As amended, the law requires each agency to make an initial inflationary adjustment for all applicable CMPs, and to make further adjustments at least once every four years thereafter for these penalty amounts.

The Debt Collection Improvement Act of 1996 further stipulates that (i) any resulting increases in a CMP due to the calculated inflation adjustments should apply only to the violations that occur after October 23, 1996—180 days after

the date of enactment of the statute—and (ii) the initial adjustment of a CMP under the Act may not exceed 10 percent of that CMP. Penalties that fall under the Internal Revenue Code of 1986, the Tariff Act of 1930, the Occupational Safety and Health Act of 1970, and the Social Security Act are specifically exempt from the requirements of the Act.

Method of Calculation

Under the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended, the inflation adjustment for each applicable CMP is determined by increasing the maximum CMP amount per violation by the cost-of-living adjustment. The "cost-of-living" adjustment is defined as the percentage of 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 the CMP (if any) was last set or adjusted in accordance with the law. Any calculated increase under this adjustment is subject to a specific rounding formula set forth in the 1990 statute.

II. OST Civil Money Penalties Affected by This Adjustment

There are two penalty authorities under our jurisdiction, as described below, for which adjustments are required and are now being made.

Title 49 of the United States Code (Transportation)

Section 46301(a)(1) of Title 49 (formerly section 1471(a) of the Federal Aviation Act, 49 U.S.C. App. § 901(a)) sets forth a CMP of not more than \$1,000 for persons who violate certain provisions of Title 49, Subtitle VII (Aviation Programs). The penalty was enacted in 1962 and has not been increased with respect to matters within the jurisdiction of the Office of the Secretary.

Based on the penalty amount inflation factor calculation, derived from dividing the June 1995 CPI by the CPI from June 1962, after rounding and applying the 10 percent maximum ceiling, we are adjusting the maximum penalty amount for the CMP under Section 46301(a)(1) to \$1,100 per violation.

The Program Fraud Civil Remedies Act of 1986

In 1986, sections 6103 and 6104 of the Omnibus Budget Reconciliation Act of 1986 (Pub. L. 99-501) set forth the Program Fraud Civil Remedies Act of 1986 (PFCRA). Specifically, this authority established a CMP and an

assessment against any individual who with knowledge or reason to know makes, presents or submits a false, fictitious or fraudulent claim or statement to the Department. The Department's regulations—published in the Federal Register (53 FR 880, January 14, 1988) and codified at 49 CFR Part 31—set forth a CMP of up to \$5,000 for each false claim or statement made to the Department.

Based on the penalty amount inflation factor calculation, derived from dividing the June 1995 CPI by the CPI from June 1986, after rounding and applying the 10 percent maximum ceiling, we are adjusting the maximum penalty amount for this CMP to \$5,500 per violation.

III. Waiver of Proposed Rulemaking

In developing this final rule, we are waiving the usual notice of proposed rulemaking and public comment procedures set forth in the Administrative Procedure Act (APA) (5 U.S.C. § 553). The APA provides an exception to the notice and comment procedures when an agency finds there is good cause for dispensing with such procedures on the basis that they are impracticable, unnecessary or contrary to the public interest. We have determined that under 5 U.S.C. § 553(b)(3)(B) good cause exists for dispensing with the notice of proposed rulemaking and public comment procedures for this rule. Specifically, this rulemaking comports and is consistent with the statutory authority set forth in the Debt Collection Improvement Act of 1996, with no issues of policy discretion. Accordingly, we believe that opportunity for prior comment is unnecessary and contrary to the public interest, and are issuing these revised regulations as a final rule that will apply to all future cases under this authority.

IV. Regulatory Impact Statement

Executive Order 12866

This final rule is exempt from review by the Office of Management and Budget (OMB) in accordance with the provisions of Executive Order 12866, because it is limited to the adoption of statutory language, without interpretation. As indicated above, the provisions contained in this final rulemaking set forth the inflation adjustments in compliance with the Debt Collection Improvement Act of 1996 for specific applicable civil money penalties under the authority of the OST. The great majority of persons addressed through these regulations do not engage in such prohibited activities and practices, and as a result, we

believe that any aggregate economic impact of these revised regulations will be minimal, affecting only those limited few who may engage in prohibited behavior in violation of the statutes or regulations. As such, this final rule and the inflation adjustment contained therein should have no effect on Federal or State expenditures.

Regulatory Flexibility Act

In addition, we prepare a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (5 U.S.C. 601–612), unless we certify that a regulation will not have a significant economic impact on a substantial number of small entities. While some penalties may have an impact on small entities, it is the nature of the violation and not the size of the entity that will result in an action by the OST, and the aggregate economic impact of this rulemaking on small business entities should be minimal, affecting only those few who have chosen to engage in prohibited arrangements and schemes in violation of statutory and regulatory intent.

Therefore, we have concluded and certify that this final rule will not have a significant economic impact on a substantial number of small entities, and that a regulatory flexibility analysis is not required for this rulemaking.

Paperwork Reduction Act

This final rule imposes no new reporting or record keeping requirements necessitating clearance by OMB.

List of Subjects

14 CFR Part 383

Administrative practice and procedure, Penalties.

49 CFR Part 31

Administrative practice and procedure, Fraud, Investigations, Organizations and functions, (Governmental agencies), Penalties.

Accordingly, the Department of Transportation adds a Part 383 to Title 14, Subchapter D, of the Code of Federal Regulations and amends 49 CFR Part 31, as set forth below:

TITLE 14—AERONAUTICS AND SPACE

CHAPTER II—OFFICE OF THE SECRETARY, DEPARTMENT OF TRANSPORTATION (AVIATION PROCEEDINGS)

A new 14 CFR Part 383 is added to subchapter D to read as follows:

PART 383—CIVIL PENALTIES

Sec.

383.1 Basis and purpose.

383.2 Amount of penalty.

Authority: 28 U.S.C. section 2461 note.

§ 383.1 Basis and purpose.

(a) Basis. This part implements the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410), as amended by the Debt Collection Improvement Act of 1996 (Pub. L. 104–134, section 31001). The Debt Collection Improvement Act of 1996 (Act) requires each agency head to adjust by regulation each civil monetary penalty provided by law by the inflation adjustment described under section 5 of the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended.

(b) Purpose. This part increases the civil penalty liability amount listed under subsection (a)(1) of section 46301 of Title 49 of the United States Code.

§ 383.2 Amount of penalty.

A person is liable to the United States Government for a civil penalty of not more than \$1,100 for violations covered by this chapter and listed under subsection (a)(1) of section 46301 of Title 49 of the United States Code.¹

TITLE 49—TRANSPORTATION

SUBTITLE A—OFFICE OF THE SECRETARY OF TRANSPORTATION

49 CFR Part 31 is amended as set forth below:

PART 31—PROGRAM FRAUD CIVIL REMEDIES

1. The authority citation for part 31 continues to read as follows:

Authority: 31 U.S.C. 3801–3812.

2. Section 31.3 is amended by revising paragraphs (a)(1) introductory text, (a)(1)(w), (b)(1) introductory text and and (b)(1)(ii) to read as follows:

§ 31.3 Basis for civil penalties and assessments.

(a) Claims. (1) Except as provided in paragraph (c) of this section, any person who makes a claim that the person knows or has reason to know—

* * *

(iv) Is for payment for the provision of property or services which the person has not provided as claimed, shall be subject, in addition to any other remedy that may be prescribed by law, to a civil penalty of not more than \$5,500 for each such claim.¹

¹ As adjusted in accordance with the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–140), as amended by the Debt Collection Improvement Act of 1996 (Pub. L. 104–143, section 31001).

* * * * *

(b) Statements. (1) Except as provided in paragraph (c) of this section, any person who makes a written statement that—* * *

(ii) Contains, or is accompanied by, an express certification or affirmation of the truthfulness and accuracy of the contents of the statement, shall be subject, in addition to any other remedy that may be prescribed by law, to a civil penalty of not more than \$5,500.²

* * * * *

Issued this 3rd day of February, 1997, at Washington, D.C.

Federico Peña,

Secretary of Transportation.

[FR Doc. 97-3238 Filed 2-12-97; 8:45 am]

BILLING CODE 4910-62-P

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 101

[T. D. 97-7]

Establishment of Port of Entry at Spirit of St. Louis Airport

AGENCY: Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations pertaining to the field organization of Customs by designating a port of entry at the Spirit of St. Louis Airport in St. Louis County, Missouri. This designation is pursuant to Congressional direction in Public Law 104-208.

EFFECTIVE DATE: March 17, 1997.

FOR FURTHER INFORMATION CONTACT: Harry Denning, Office of Field Operations, (202) 927-0196.

SUPPLEMENTARY INFORMATION:

Background

As part of a continuing program to obtain more efficient use of its personnel, facilities, and resources, and to provide better service to carriers, importers, and to the general public, Customs is amending § 101.3, Customs Regulations (19 CFR 101.3), by designating a port of entry at the Spirit of St. Louis Airport in St. Louis County, Missouri. This designation is pursuant to Congressional direction in Public Law 104-208 of September 30, 1996.

² As adjusted in accordance with the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101-140), as amended by the Debt Collection Improvement Act of 1996 (Pub. L. 104-143, section 31001).

Port Limits

The port limits of the Spirit of St. Louis Airport encompass the following territory:

A tract of land in the City of Chesterfield, St. Louis County, Missouri, described as follows: The point of beginning located at the intersection of the Missouri River Interstate 64/U.S. Highway 40/61 Bridge and the Monarch-Chesterfield Levee; thence eastwardly along said Levee to Bonhomme Creek; thence southwestwardly along said Levee across its eastern intersection with Interstate 64 and its intersection with Chesterfield Airport Road to its connection with the St. Louis Southwestern Railroad rail bed just east of Long Road; thence westwardly along said Railroad right-of-way to its intersection with Eatherton Road; thence northwardly along Eatherton Road to a point where it intersects with Olive Street Road and the Levee; thence northeastwardly along said Levee to the point of beginning.

Regulatory Flexibility Act and Executive Order 12866

Because this document relates to agency management and organization and because this amendment is directed by Congress, this document is not subject to the notice and public procedure requirements of 5 U.S.C. 553. Accordingly this document is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

This document does not meet the criteria for a significant regulatory action under Executive Order 12866.

Inapplicability of Public Notice and Comment Requirements

Inasmuch as this amendment is the direct result of Congressional direction, pursuant to 5 U.S.C. 553(a)(2) and (b)(B), good cause exists for dispensing with the notice and public procedure thereon as unnecessary.

Drafting Information

The principal author of this document was Janet Johnson, Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 101

Customs duties and inspection, Organization and functions (Government agencies).

Amendments to the Regulations

For the reasons set forth in the preamble, part 101 of the Customs

Regulations is amended as set forth below.

PART 101—GENERAL PROVISIONS

1. The general authority citation for Part 101 and the specific authority for § 101.3 continue to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 2, 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States), 1623, 1624. Sections 101.3 and 101.4 also issued under 19 U.S.C. 1 and 58b;

* * * * *

§ 101.3 [Amended]

2. Section 101.3(b)(1) is amended by adding, in alphabetical order under the state of Missouri, "Spirit of St. Louis Airport" in the "Ports of entry" column and, adjacent to this entry, "Including territory described in T. D. 97-7" in the "Limits of port" column.

Approved: January 17, 1997.

George J. Weise,

Commissioner of Customs.

John P. Simpson,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 97-3619 Filed 2-12-97; 8:45 am]

BILLING CODE 4820-02-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 178

[Docket No. 89F-0331]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of 2,3,4,5-tetrachloro-6-cyanobenzoic acid, methyl ester reaction products with *p*-phenylenediamine and sodium methoxide as a colorant in all food-contact polymers. This action is in response to a petition filed by Ciba-Geigy Corp.

DATES: Effective February 13, 1997; written objections and requests for a hearing by March 17, 1997.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1-23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Richard H. White, Center for Food