

A601R-32-088, including Appendices A, B, and C, dated February 20, 2003. 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. Copies may be obtained from Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, suite 410, Westbury, New York; or at the National Archives and Records Administration (NARA). For 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](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

**Note 3:** The subject of this AD is addressed in Canadian airworthiness directive CF-2003-09, dated April 23, 2003.

#### Effective Date

(j) This amendment becomes effective on August 13, 2004.

Issued in Renton, Washington, on June 30, 2004.

**Kalene C. Yanamura,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 04-15511 Filed 7-8-04; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

#### 14 CFR Part 383

[Docket No. OST-2004-18560]

RIN 2105-AD40

#### Civil Penalties

**AGENCY:** Office of the Secretary (OST), DOT.

**ACTION:** Final rule.

**SUMMARY:** The recently enacted Vision 100—Century of Aviation Reauthorization Act revised the civil penalty provisions applicable to violations of the aviation economic requirements of Title 49. By this rule, the Department is revising 14 CFR Part 383 to reflect these revised civil penalties.

**DATES:** *Effective Date:* This rule is effective on August 9, 2004. However, the statutory amendments it reflects became effective on December 12, 2003, by their own terms.

**FOR FURTHER INFORMATION CONTACT:** Nicholas Lowry, Attorney, Office of Aviation Enforcement and Proceedings (C-70), Office of the General Counsel, Department of Transportation, 400 7th

St., SW., Washington, DC 20590, (202) 366-9349.

**SUPPLEMENTARY INFORMATION:** Vision 100 revised the civil penalty provisions applicable to violations of Title 49. With respect to violations of economic requirements contained in Title 49, chapters 401 through 421, and rules and orders issued thereunder, the new civil penalty provisions are as follows:

(1) A general civil penalty of not more than \$25,000 (or \$1,100 for individuals or small businesses) instead of the prior general penalty of \$1,000 (adjusted by regulation to \$1,100 to reflect inflation), applies to violations of statutory provisions and rules or orders issued under those provisions, other than those listed below. (see 49 U.S.C. 46301(a)(1));

(2) With respect to small businesses and individuals, notwithstanding the general \$1,100 civil penalty, the statute provides for:

(a) A maximum civil penalty of \$10,000 for violations of most provisions of Chapter 401, including the anti-discrimination provisions of sections 40127 (general provision), and 41705 (discrimination against the disabled) or rules or orders issued thereunder (see 49 U.S.C. 46301 (a)(5) (A));

(b) A maximum civil penalty of \$5,000 for violations of section 41719 or rules or orders issued thereunder (49 U.S.C. 46301 (a)(5)(C); and

(c) A maximum civil penalty of \$2,500 for violations of section 41712 or consumer protection rules or orders (49 U.S.C. 46301 (a)(5)(D)).

This amendment incorporates these Vision 100 penalty revisions into 14 CFR Part 383, the regulatory codification of the related civil penalty provisions.

#### Regulatory Analyses and Notices

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 when 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 is consistent with the statutory authority set forth in Vision 100, and raises no issues of policy discretion. Accordingly, we believe that opportunity for prior comment is unnecessary and contrary to the public interest, and we are issuing these revised regulations as a final rule.

This final rule is exempt from review by the Office of Management and

Budget (OMB) in accordance with provisions of Executive Order 12866, because it is limited to the adoption of statutory language, without interpretation. The great majority of persons covered by these regulations do not engage in the prohibited conduct subject to the revised civil penalty provisions, and as a result, we believe that any aggregate economic impact of these revised regulations will be minimal, affecting only those who do not comply with the pertinent statutes or regulations. As a result, this final rule should have no effect on Federal or State expenditures.

In addition, we must prepare a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (5 U.S.C. 601-602) unless we certify that a regulation will not have a significant economic impact on a substantial number of small entities. In this case the revision of the civil penalty amounts will raise potential penalties for all aviation businesses; however, there are special reduced penalties for individuals and small businesses with regard to specific kinds of violations. It is primarily the nature of the violations that has determined OST enforcement action in the past, although the size of an entity has been taken into account in determining what, if any, civil penalty is appropriate. The aggregate economic impact of this rulemaking on small entities should, therefore, be minimal, affecting only those who engage in conduct prohibited by statute or the related regulations.

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 paperwork clearance by OMB.

#### Unfunded Mandates Reform Act of 1995

OST has determined that the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply to this rulemaking.

#### List of Subjects in 14 CFR Part 383

Administrative practice and procedures, Penalties.

■ Accordingly, the Department of Transportation revises Part 383 of Title 14, as set forth below:

**PART 383—CIVIL PENALTIES**

Sec.

383.1 Basis and purpose.

383.2 Amount of penalty.

**Authority:** Sec. 503, Pub. L. 108–176, 117 Stat. 2490.

**§ 383.1 Basis and purpose.**

(a) Basis. This part implements the civil penalty provisions of Vision 100—Century of Aviation Reauthorization Act (Pub. L. 108–176; 117 Stat. 2490, December 12, 2003, section 503) (Vision 100). Because this statute revises or reaffirms all civil penalty provisions under 49 U.S.C. 46301, no further adjustments to account for inflation are required under the terms of Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410, 104 Stat. 890) and the Debt Collection Improvement Act of 1996 (Pub. L. 104–134, section 31001). The latter requires that federal agencies adjust civil penalties at least every four years to reflect any inflation which may have occurred.

(b) Purpose. This part incorporates the civil penalty liability amounts prescribed in 49 U.S.C. 46301(a), as modified by Vision 100.

**§ 383.2 Amount of penalty.**

Civil penalties payable to the U.S. Government for violations of Title 49, Chapters 401 through 421, pursuant to 49 U.S.C. 46301(a) as revised by Vision 100, are as follows:

(a) A general civil penalty of not more than \$25,000 (or \$1,100 for individuals or small businesses) applies to violations of statutory provisions and rules or orders issued under those provisions, other than those listed in paragraph (b) of this section, (see 49 U.S.C. 46301(a)(1));

(b) With respect to small businesses and individuals, notwithstanding the general \$1,100 civil penalty, the following civil penalty limits apply:

(1) A maximum civil penalty of \$10,000 applies for violations of most provisions of Chapter 401, including the anti-discrimination provisions of sections 40127 (general provision), and 41705 (discrimination against the disabled) and rules and orders issued thereunder (see 49 U.S.C. 46301 (a)(5) (A));

(2) A maximum civil penalty of \$5,000 applies for violations of section 41719 and rules and orders issued thereunder (see 49 U.S.C. 46301 (a)(5)(C)); and

(3) A maximum civil penalty of \$2,500 applies for violations of section 41712 or consumer protection rules or orders (see 49 U.S.C. 46301 (a)(5)(D)).

Issued this 26th day of June, 2004, in Washington, DC.

Norman Y. Mineta,

Secretary.

[FR Doc. 04–15549 Filed 7–8–04; 8:45 am]

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**COMMODITY FUTURES TRADING COMMISSION****17 CFR Parts 1, 4, 31, 140, 145 and 190****Corrections to Regional Office Information, References to Section 4d(2) and Criteria for CPO Registration Exemption**

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commodity Futures Trading Commission (“Commission”) is amending its regulations to make a series of technical corrections, as follows: To delete references to the Western Regional Office, which was closed in 2003; to update addresses for other regional offices; to correct references to section 4d(2) of the Commodity Exchange Act to read section 4d(a)(2) instead; and to clarify that the participant criteria for exemption from commodity pool operator (“CPO”) registration under Rule 4.13(a)(3) include persons who meet the participant criteria of Rule 4.13(a)(4).

**DATES:** Effective: July 9, 2004.

**FOR FURTHER INFORMATION CONTACT:** Thelma Diaz, Special Counsel, at (202) 418–5137, Division of Clearing and Intermediary Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st St., NW., Washington DC 20581; electronic mail at [tdiaz@cftc.gov](mailto:tdiaz@cftc.gov).

**SUPPLEMENTARY INFORMATION:****I. Amendments To Update Regional Office Information**

Commission Rule 140.2 describes the organization of four regional offices for the Commission (the Eastern, Central, Southwestern and Western Regional offices). Among other things, Rule 140.2 specifies for each regional office a list of states for which the office is “responsible for enforcement of the [Commodity Exchange Act] and administration of programs of the Commission”.<sup>1</sup> In 2002, the Eastern and Central Regional Offices moved to new locations, and the Western Regional Office was closed in 2003. The

<sup>1</sup> The Commodity Exchange Act may be found at 7 U.S.C. 1 *et seq.* (2000).

Commission is therefore amending Rule 140.2 to update the address information for the Eastern and Central Regional Offices, and to delete the reference to the Western Regional Office. Rule 140.2 is also amended to add to the list of states for the Southwestern Regional Office those states that are currently in the list for the Western Regional Office (Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon, Utah, Washington, and Wyoming).<sup>2</sup>

Commission Rules 1.10, 1.12, 1.17 and 31.13 must also be revised to reflect the closing of the Western Regional Office. These rules specify various reports or notices that are to be filed with the Commission, and state further that such reports and notices are considered filed when received by the regional office that is the nearest to a firm’s principal place of business, with the proviso that firms under the jurisdiction of the Western Regional Office should file with the Southwestern Regional Office instead. The proviso is no longer necessary, and the Commission is accordingly amending each of these regulations to delete the proviso.

The Commission is also amending the list of addresses provided in Rule 145.6 for requests for public records directed to regional offices. As amended, the rule will no longer include the address of the closed Division of Enforcement office in the Western Region.

**II. Amendments To Update References to Section 4d**

Several Commission regulations include references to section 4d(2) of the Commodity Exchange Act. With the enactment of Commodity Futures Modernization Act of 2000 (“CFMA”), section 4d(2) has now been redesignated as section 4d(a)(2).<sup>3</sup> The Commission is therefore amending Rules 1.16, 1.17, 1.23, 1.30, 31.13, and 190.07 to change the references to section 4d(2) to read section 4d(a)(2).

<sup>2</sup> The Commission is also making a technical correction to Rule 140.99, which currently includes two different paragraphs that are both designated as paragraph (d)(2). In 2002, the Commission adopted amendments to Rule 140.99 that added the text in the first paragraph designated as (d)(2) and deleted the text found in the second paragraph. See 67 FR 62350, 62353–4 (October 7, 2002). The publisher of the Code of Federal Regulations, however, incorrectly included the text of both paragraphs, and this final rule adopts a technical correction to delete the second of the two paragraphs designated as (d)(2).

<sup>3</sup> Sec. 1(a)(5) of Pub. L. 106–554 (title II, Sec. 251(f)).