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FEDERAL LABOR RELATIONS AUTHORITY

5 CFR Chapter XIV

New Addresses

AGENCY: Federal Labor Relations Authority.

ACTION: Final rule; correction.

SUMMARY: On March 9, 2005 (70 FR 11535), a final rule was published announcing the relocation of the Boston Regional Office of the Federal Labor Relations Authority effective March 21, 2005. However, the moving date of the Boston Regional Office has been delayed and the relocation will be effective April 25, 2005.

DATES: *Effective Date:* March 9, 2005.

FOR FURTHER INFORMATION CONTACT: Yvonne Thomas, Director, Administrative Services Division, Federal Labor Relations Authority, 1400 K Street, NW., Washington, DC 20424–0001; (202) 218–7750.

Dated: March 10, 2005.

Yvonne Thomas,

Director, Administrative Services Division.

[FR Doc. 05–5053 Filed 3–10–05; 12:59 pm]

BILLING CODE 6727–01–P

FARM CREDIT ADMINISTRATION

12 CFR Part 622

RIN 3052–AC28

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

AGENCY: Farm Credit Administration.

ACTION: Final rule.

SUMMARY: This regulation implements cost-of-living adjustments to civil money penalties (CMPs) that the Farm Credit Administration (FCA) may impose under the Farm Credit Act of 1971, as amended (Farm Credit Act), and under the National Flood Insurance Reform Act of 1994 (Reform Act). The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, requires all Federal agencies with the authority to impose CMPs to evaluate those CMPs periodically to ensure that they continue to maintain their deterrent value.

EFFECTIVE DATE: The regulation will become effective on March 16, 2005.

FOR FURTHER INFORMATION CONTACT:

Mark L. Johansen, Senior Policy Analyst, Office of Policy and Analysis, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4498, TTY (703) 883–4434; or

Wendy R. Laguarda, Senior Counsel, or Rebecca S. Orlich, Senior Attorney, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TTY (703) 883–4020.

SUPPLEMENTARY INFORMATION:

I. Background

A. Federal Civil Penalties Inflation Adjustment Act of 1990, as Amended

The Federal Civil Penalties Inflation Adjustment Act of 1990 (FCPIA Act),[1] as amended by the Debt Collection Improvement Act of 1996 (DCIA),[2] requires every Federal agency with authority to issue CMPs [3] to enact regulations that adjust its CMPs pursuant to the inflation adjustment formula in section 5(b) of the FCPIA Act. Each Federal agency was required to issue these regulations by October 23, 1996, and adjust when necessary at least once every 4 years thereafter. Section 6 of the amended FCPIA Act specifies that inflation-adjusted CMPs will apply only to violations that occur after the effective date of the adjustment. The inflation adjustment is based on the percentage increase in the Consumer Price Index (CPI).[4] Specifically, section 5(b) of the FCPIA Act defines the term ''cost-of-living adjustment'' as ''the percentage (if any) for each civil monetary penalty by which (1) the Consumer Price Index for the month of June of the calendar year preceding the adjustment, exceeds (2) the Consumer Price Index for the month of June of the calendar year in which the amount of such civil monetary penalty was last set or adjusted pursuant to law.'' Furthermore, the increase for each CMP that is adjusted for inflation must be rounded using a method prescribed by section 5(a) of the FCPIA Act. We made our last adjustments to CMPs issued under the Farm Credit Act in October 1996.[5]

B. CMPs Issued Under the Farm Credit Act

The adjustment requirement affects two provisions of section 5.32(a) of the Farm Credit Act, which authorizes the FCA to impose CMPs on Farm Credit System (FCS or System) institutions and their related parties. Section 5.32(a) provides that any FCS institution or any officer, director, employee, agent, or other person participating in the conduct of the affairs of an FCS institution who violates the terms of a final order issued under section 5.25 or 5.26 of the Farm Credit Act must pay up to $1,000 per day for each day during which such violation continues. Orders issued under section 5.25 or 5.26 of the Farm Credit Act include temporary and permanent cease-and-desist orders. In addition, section 5.32(h) provides for the FCA to treat a directive issued under sections 4.3(b)(2), 4.3A(e), or 4.14A(i) of the Farm Credit Act as a final order issued under section 5.25 for purposes of assessing a CMP. Section 5.32(a) also states that ''[a]ny such institution or person who violates any provision of the [Farm Credit] Act or any regulation issued under this Act shall forfeit and pay a civil penalty of not more that $500 per day for each day during which such violation continues.'' The maximum

[1] Pub. L. 101–410, 104 Stat. 890 (October 5, 1990), codified at 28 U.S.C. 2461 note.

[2] Pub. L. 104–134, title III, section 31001(s), 110 Stat. 1321–373 (April 26, 1996), codified at 28 U.S.C. 2461 note.

[3] Section 3(2) of the amended FCPIA 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.

[4] The CPI is published by the Department of Labor, Bureau of Statistics, and is available at its Web site: *ftp://ftp.bls.gov/pub/special.requests/cpi/cpiai.txt.*

[5] We made CMP adjustments in 2000 and rescinded them in 2002 pursuant to instructions from the General Accounting Office (now the Government Accountability Office). *See* 65 FR 46087 (July 27, 2000) and 67 FR 68931 (Nov. 14, 2002).

amounts of these CMPs last increased in 1996, and the increases are set forth in existing § 622.61.

1. Mathematical Calculation

The adjustment calculation will be based on the percentage by which the CPI for June 2004 exceeds the CPI for June 1996. According to the Bureau of Labor Statistics, the CPI for June 1996 was 156.7, and the CPI for June 2004 was 189.7, resulting in a percentage change of 21.06 percent.

2. Penalty Amounts Remain the Same in § 622.61(a)(1)

The maximum CMP in § 622.61(a) for a violation of a final order issued under section 5.25 or 5.26 of the Farm Credit Act is currently $1,100. Multiplying $1,100 by 21.06 percent results in an increase of $231.65. When that number is rounded as required by the FCPIA Act,[6] the inflation-adjusted maximum remains $1,100. Existing § 622.61(a) will be revised and redesignated as § 622.61(a)(1).

3. New Penalty Amounts in § 622.61(a)(2)

The maximum CMP in existing § 622.61(b) for a violation of the Act or regulations is $550. Multiplying $550 by 21.06 percent results in an increase of $115.83. When that number is rounded to $100 as required by the FCPIA Act,[7] the inflation-adjusted maximum increases to $650. Existing § 622.61(b) will be revised and redesignated as § 622.61(a)(2).

C. CMPs Issued Under the Reform Act

The Flood Disaster Protection Act of 1973,[8] as amended by the Reform Act,[9] requires that FCA assess a CMP for a pattern or practice of committing certain specific actions in violation of the National Flood Insurance Program. Under the Reform Act, which became law in 1994, these CMPs were not to exceed $350 for each violation, and the total amount of penalties assessed for certain violations of the program against any single regulated entity during any calendar year was not to exceed $100,000.[10]

1. Mathematical Calculation

Because this is our first adjustment of the amounts for CMPs issued under the Reform Act since the CMPs were set in 1994, the adjustment calculation will be based on the percentage by which the CPI for June 2004 exceeds the CPI for June 1994. According to the Bureau of Labor Statistics, the CPI for June 1994 was 148.0, and the CPI for June 2004 was 189.7, resulting in a percentage change of 28.18. However, the amended FCPIA Act limits the first adjustment of a CMP to an amount not in excess of 10 percent of the original penalty.[11] Therefore, any required adjustments are limited to 10 percent.

2. New Penalty Amounts in § 622.61(b)

Multiplying $350 by 28.18 percent yields a $98.63 increase, which would be rounded to a $100 increase under the usual formula. But the 10-percent limit means that the CMP may increase by only $35. Therefore, the new CMP maximum for each violation will be $385. Similarly, the $100,000 total cap would have increased by a rounded $30,000 under the usual formula, but the 10-percent limit results in an increase of only $10,000, bringing the new cap to $110,000 in total penalties that may be assessed under the Reform Act against any single regulated entity during any calendar year.

II. Other Changes to Part 622, Subpart B

We have revised various sections in part 622, subpart B on ''Rules and Procedures for Assessment and Collection of Civil Money Penalties'' to clarify that the current CMP procedures apply to CMPs assessed under the Reform Act. We have provided that FCA will forward payments for CMPs assessed under the Reform Act to the National Flood Mitigation Fund. We have also made nonsubstantive changes to conform the language of subpart B to plain English principles.

In addition, we have deleted existing §§ 622.53 and 622.54 as unnecessary because they simply repeat provisions of section 5.32(b) of the Farm Credit Act. These deletions will have no substantive effect on FCA procedures for assessing and collecting CMPs.

As described above, these inflation-adjusted CMPs will apply only to violations that occur after the effective date of this rule.

III. Notice and Comment Not Required by Administrative Procedure Act

The FCPIA Act gives Federal agencies no discretion in the adjustment of CMPs for the rate of inflation. Further, these revisions are ministerial, technical, and noncontroversial. For these reasons, the FCA finds good cause to determine that public notice and an opportunity to comment are impracticable, unnecessary, and contrary to the public interest pursuant to the Administrative Procedure Act, 5 U.S.C. 553(b)(B), and adopts this rule in final form. For all of the foregoing reasons, the FCA also finds good cause to determine that this regulation should become effective immediately, pursuant to the Administrative Procedure Act, 5 U.S.C. 553(d).

IV. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the FCA hereby certifies that the final rule will not have a significant economic impact on a substantial number of small entities. Each of the banks in the System, considered together with its affiliated associations, has assets and annual income in excess of the amounts that would qualify them as small entities. Therefore, System institutions are not ''small entities'' as defined in the Regulatory Flexibility Act.

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 is 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); 28 U.S.C. 2461 note; and 42 U.S.C. 4012a(f).

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

■ 2. In § 622.52, revise paragraphs (a) and (b) and add paragraph (c) to read as follows:

§ 622.52 Purpose and scope.

* * * * *

[6] ''Any increase determined under this paragraph shall be rounded to the nearest * * * (3) multiple of $1,000 in the case of penalties greater than $1,000 but less than or equal to $10,000.'' Therefore, $231.65 is rounded to the nearest multiple of $1,000, which is $0.

[7] ''Any increase determined under this paragraph shall be rounded to the nearest * * * (3) multiple of $100 in the case of penalties greater than $100 but less than or equal to $1,000.'' Therefore, $115.83 is rounded to the nearest multiple of $100, or to $100.

[8] 42 U.S.C. 4012a.

[9] 103 Pub. L. 325, title V, 108 Stat. 2160, 2255–87 (September 23, 1994).

[10] 42 U.S.C. 4012a(f).

[11] Section 6 of the FCPIA Act, as amended by the DCIA, provides: ''The first adjustment of a civil monetary penalty made pursuant to the amendment made by paragraph (1) [amending the FCPIA Act] may not exceed 10 percent of such penalty.''

(a) For violations of the terms of a final cease and desist order issued under section 5.25 or 5.26 of the Act;

(b) For violations of any provision of the Act or any regulation issued under the Act; or

(c) For violations of the National Flood Insurance Reform Act (Reform Act) as set forth in 42 U.S.C. 4012a(f) or any regulation issued under the Reform Act.

§§ 622.53 and 622.54 [Removed and Reserved]

■ 3. Remove and reserve §§ 622.53 and 622.54.

■ 4. Revise § 622.55(a) to read as follows:

§ 622.55 Notice of assessment of civil money penalty.

(a) *Notice of assessment.* The notice of assessment for a civil money penalty will state:

(1) The legal authority for the assessment;

(2) The amount of the civil money penalty being assessed;

(3) The date by which the civil money penalty must be paid;

(4) The matter of fact or law constituting the grounds for assessment of the civil money penalty;

(5) The right of the institution or person being assessed to a formal hearing to challenge the assessment;

(6) That failure to request a hearing constitutes a waiver of the opportunity for a hearing and the notice of assessment will constitute a final and unappealable order; and

(7) The time limit to request such a formal hearing.

* * * * *

§§ 622.57(a), 622.58, and 622.59(b) [Amended]

■ 5. Amend §§ 622.57(a), 622.58, and 622.59(b) by removing the word ''shall'' and adding in its place, the word ''will'' each place it appears.

■ 6. Revise §§ 622.60 and 622.61 to read as follows:

§ 622.60 Payment of civil money penalty.

(a) *Payment date.* Generally, the date designated in the notice of assessment for payment of the civil money penalty will be 60 days from the issuance of the notice. If, however, the Board finds, in a specific case, that the purposes of the relevant statutes would be better served if the 60-day period were changed, the Board may shorten or lengthen the period or make the civil money penalty payable immediately upon receipt of the notice of assessment. If a timely request for a formal hearing to challenge an assessment of a civil money penalty is filed, payment of the penalty will not be required unless and until the Board issues a final order of assessment following the hearing. If an assessment order is issued, it will specify the date by which the civil money penalty is to be paid or collected.

(b) *Method of payment.* Checks in payment of civil money penalties must be made payable to the ''Farm Credit Administration.'' Upon collection, the FCA will forward payment for penalties described in § 622.52(a) and (b) to the United States Department of Treasury. The FCA will forward payment for penalties described in § 622.52(c) to the National Flood Mitigation Fund as required by 42 U.S.C. 4012a(f)(8).

§ 622.61 Adjustment of civil money penalties by the rate of inflation under the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended.

(a) The maximum amount of each civil money penalty within FCA's jurisdiction is adjusted in accordance with the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended (28 U.S.C. 2461 note), as follows:

(1) Amount of civil money penalty imposed under section 5.32 of the Act for violation of a final order issued under section 5.25 or 5.26 of the Act: The maximum daily amount is $1,100.

(2) Amount of civil money penalty for violation of the Act or regulations: The maximum daily amount is $550 for each violation that occurs before March 16, 2005, and $650 for each violation that occurs on or after such date.

(b) The maximum civil money penalty amount assessed under 42 U.S.C. 4012a(f) is $350 for each violation that occurs before March 16, 2005, with total penalties under such statute not to exceed $100,000 for any single institution during any calendar year. For violations that occur on or after March 16, 2005, the maximum civil money penalty is $385 for each violation, with total penalties under such statute not to exceed $110,000 for any single institution during any calendar year.

Dated: March 9, 2005.

Jeanette C. Brinkley,

Secretary, Farm Credit Administration Board.

[FR Doc. 05–5001 Filed 3–14–05; 8:45 am]

BILLING CODE 6705–01–P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 4022 and 4044

Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: The Pension Benefit Guaranty Corporation's regulations on Benefits Payable in Terminated Single-Employer Plans and Allocation of Assets in Single-Employer Plans prescribe interest assumptions for valuing and paying benefits under terminating single-employer plans. This final rule amends the regulations to adopt interest assumptions for plans with valuation dates in April 2005. Interest assumptions are also published on the PBGC's Web site (*http://www.pbgc.gov*).

DATES: *Effective Date:* April 1, 2005.

FOR FURTHER INFORMATION CONTACT: Catherine B. Klion, Attorney, Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, (202) 326–4024. (TTY/TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to (202) 326–4024.)

SUPPLEMENTARY INFORMATION: The PBGC's regulations prescribe actuarial assumptions—including interest assumptions—for valuing and paying plan benefits of terminating single-employer plans covered by title IV of the Employee Retirement Income Security Act of 1974. The interest assumptions are intended to reflect current conditions in the financial and annuity markets.

Three sets of interest assumptions are prescribed: (1) A set for the valuation of benefits for allocation purposes under section 4044 (found in Appendix B to part 4044), (2) a set for the PBGC to use to determine whether a benefit is payable as a lump sum and to determine lump-sum amounts to be paid by the PBGC (found in Appendix B to part 4022), and (3) a set for private-sector pension practitioners to refer to if they wish to use lump-sum interest rates determined using the PBGC's historical methodology (found in Appendix C to part 4022).

Accordingly, this amendment (1) adds to Appendix B to part 4044 the interest assumptions for valuing benefits for allocation purposes in plans with valuation dates during April 2005, (2)