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FEDERAL ELECTION COMMISSION

11 CFR Part 111

[Notice 2013–10]

Civil Monetary Penalties Inflation Adjustments

AGENCY: Federal Election Commission.

ACTION: Final rules.

SUMMARY: In accordance with the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended, the Federal Election Commission is adopting final rules to apply inflation adjustments to certain civil monetary penalties under the Federal Election Campaign Act of 1971, as amended, the Presidential Election Campaign Fund Act, and the Presidential Primary Matching Payment Account Act. The civil penalties being adjusted are for a knowing and willful violation of the prohibition against making a contribution in the name of another; and certain late filed or non-filed reports under the Commission's administrative fines program. The adjusted civil monetary penalties are calculated according to a statutory formula and will be effective for violations occurring after the effective date of these rules. Further information is provided in the supplementary information that follows.

DATES: These penalty adjustments are effective on July 24, 2013.

FOR FURTHER INFORMATION CONTACT: Mr. Robert M. Knop, Assistant General Counsel, or Ms. Cheryl A.F. Hemsley, or Ms. Jessica Selinkoff, Attorneys, 999 E Street NW., Washington, DC 20463, (202) 694–1650 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended (“Inflation Adjustment Act”),¹ requires

Federal agencies to adjust for inflation the civil monetary penalties within their jurisdiction at least once every four years according to detailed formulas. The Inflation Adjustment Act defines a civil monetary penalty as any penalty, fine, or other sanction that is for a specific amount, or has a maximum amount, as provided by Federal law, and that a Federal agency assesses or enforces in an administrative proceeding or in a civil action in Federal court.² Under the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. 431 *et seq.* (“FECA”), the Federal Election Commission has jurisdiction over several civil penalties for violations of FECA, the Presidential Election Campaign Fund Act, 26 U.S.C. 9001 *et seq.*, and the Presidential Primary Matching Payment Account Act, 26 U.S.C. 9031 *et seq.* These rules fulfill the Commission's non-discretionary obligation under the Inflation Adjustment Act to adjust for inflation, according to the prescribed formulas, the civil penalties within its jurisdiction.

Immediate Effectiveness of Final Rules

The Inflation Adjustment Act requires the Commission to adjust the civil penalties under its jurisdiction by using a cost-of-living adjustment (“COLA”) formula. The application of this COLA does not involve any Commission discretion or policy judgments. Thus, the Commission finds that the “good cause” exception to the notice and comment requirement of the Administrative Procedure Act applies to these rules because notice and comment are unnecessary. 5 U.S.C. 553(b)(B), (d)(3).

For the same reasons, these rules do not need to be submitted to the Speaker of the House of Representatives or the President of the Senate under the Congressional Review Act, 5 U.S.C. 801 *et seq.*, and these rules are effective upon publication. 5 U.S.C. 808(2). Accordingly, these amendments are effective on July 24, 2013. The new civil penalties are applicable only to violations that occur after this effective date.³

¹Pub. L. 101–410, 110 Stat. 1321, 1373; Federal Reports Elimination Act of 1998, Pub. L. 105–362, sec. 1301, 112 Stat. 3280.

²Inflation Adjustment Act sec. 3(2).

³*Id.* sec. 6.

Explanation and Justification

Under the Inflation Adjustment Act, the Commission must adjust civil penalties by a COLA defined as the percentage by which the U.S. Department of Labor's Consumer Price Index for all urban consumers (“CPI”) for June of the year preceding the adjustment exceeds the CPI for June of the year in which each civil penalty was last set or adjusted.⁴ The amount of the resulting increase is then subject to rounding rules based on the size of the civil penalty.⁵ The Inflation Adjustment Act imposes a 10% cap on the first adjustment under its rules, but no cap on subsequent adjustments.⁶ That is, the first adjustment of a civil penalty may not exceed 10% of the starting civil penalty.

The Commission has previously applied the Inflation Adjustment Act formulas to its civil penalties in 1997, 2002, 2005, and 2009.⁷ As explained below, the Inflation Adjustment Act now requires the Commission to adjust one civil penalty in 11 CFR 111.24 and some civil penalties in 11 CFR 111.43. Because of the rounding rules, the other civil penalties within the Commission's jurisdiction will not change.

1. 11 CFR 111.24—General Civil Penalties

FECA establishes civil penalties for violations of FECA or the other statutes within the Commission's jurisdiction.

⁴*Id.* sec. 5(b).

⁵*Id.* sec. 5(a). The rounding rules applicable to the Commission's civil penalties require that if the existing penalty is less than or equal to \$100, the increase is rounded to the nearest \$10; if the existing penalty is greater than \$100 but less than or equal to \$1,000, the increase is rounded to the nearest \$100; if the existing penalty is greater than \$1,000 but less than or equal to \$10,000, the increase is rounded to the nearest \$1,000; and if the existing penalty is greater than \$10,000 but less than or equal to \$100,000, the increase is rounded to the nearest \$5,000.

⁶Pub. L. 104–134, sec. 31001(s)(2), 110 Stat. 1321, 1373.

⁷See Explanation and Justification for Final Rules on Civil Monetary Penalties Inflation Adjustments, 74 FR 31345 (July 1, 2009), *amended by* Explanation and Justification for Final Rules on Civil Monetary Penalties Inflation Adjustments; Correction, 74 FR 37161 (July 28, 2009) (collectively, “2009 Adjustment”), Explanation and Justification for Final Rules on Inflation Adjustments for Civil Monetary Penalties, 70 FR 34633 (June 15, 2005) (“2005 Adjustment”), Explanation and Justification for Final Rules on Adjustments to Civil Monetary Penalty Amounts, 62 FR 11316 (Mar. 12, 1997). In January 2002, the rounding rules resulted in no adjustments. Agenda Doc. 02–06 (Jan. 17, 2002).

¹Pub. L. 101–410, 104 Stat. 890 (codified at 28 U.S.C. 2461 note), as amended by Debt Collection Improvement Act of 1996, Pub. L. 104–134, sec.

Those statutory civil penalties are found at 2 U.S.C. 437g(a)(5), (6), and (12). Commission regulations in 11 CFR 111.24 set forth each such civil penalty, as adjusted pursuant to the Inflation Adjustment Act.

These final rules adjust only one statutory civil penalty: the \$50,000 civil penalty established by 2 U.S.C. 437g(a)(5)(B), which is currently at the

2009 level of \$60,000. 11 CFR 111.24(a)(2)(ii).⁸ To determine the 2013 COLA, the CPI for June 2012 (229.478)⁹ is divided by the CPI for June 2009 (215.693), the year the civil penalty was last adjusted, for an increase of 6.4%. Next, the raw inflation adjustment is determined by multiplying the present civil penalty (\$60,000) by the COLA (0.064) for a raw increase of \$3,840,

which is rounded to \$5,000. Finally, the rounded increase is added to the civil penalty, for a new section

111.24(a)(2)(ii) civil penalty of \$65,000. Using the same Inflation Adjustment Act formulas, the Commission has also reviewed the other civil penalties in 11 CFR 111.24. None of those other civil penalties will change this year because of the rounding rules.

Section	Previous civil penalty	Last adjusted	COLA	Raw increase	Rounded increase	New civil penalty
11 CFR 111.24(a)(1)	\$7,500	2009	0.064	\$480.00	\$0	unchanged.
11 CFR 111.24(a)(2)(i)	16,000	2009	0.064	1,024.00	0	unchanged.
11 CFR 111.24(a)(2)(ii)	60,000	2009	0.064	3,840.00	5,000	65,000.
11 CFR 111.24(b)	3,200	2009	0.064	204.80	0	unchanged.
11 CFR 111.24(b)	7,500	2009	0.064	480.00	0	unchanged.

2. 11 CFR 111.43, 111.44—
Administrative Fines

FECA permits the Commission to assess civil penalties for violations of the reporting requirements of 2 U.S.C. 434(a) in accordance with schedules of penalties established and published by the Commission. 2 U.S.C.

437g(a)(4)(C)(i). The penalty schedule in 11 CFR 111.43(a) applies to reports that are not election sensitive, and the schedule in 11 CFR 111.43(b) applies to reports that are election sensitive.¹⁰ Each schedule contains two columns of penalties, one for late-filed reports and one for non-filed reports, with penalties based on the level of financial activity in the report and its lateness (where applicable).¹¹ In addition, 11 CFR 111.43(c) establishes a civil penalty for situations in which a committee fails to file a report and the Commission cannot calculate the relevant level of activity. Finally, 11 CFR 111.44 establishes a civil penalty for failure to file timely reports of contributions received less than 20 days, but more than 48 hours, before an election. See 2 U.S.C. 434(a)(6).

The schedules in 11 CFR 111.43 were set in 2003 when the Commission re-promulgated its Administrative Fines program, which implements 2 U.S.C. 437g(a)(4)(C). See Explanation and Justification for Final Rules on Administrative Fines, 68 FR 12572 (Mar. 17, 2003). In 2005, the Commission applied the Inflation Adjustment Act formulas to the civil penalties in section 111.43 but did not

adjust any of the penalties because of the rounding rules. See 2005 Adjustment, 70 FR at 34635. Under the same procedures, the Commission adjusted some, but not all, of these civil penalties in 2009. See 2009 Adjustment, 74 FR at 31348–49 (renumbering schedules and adjusting some penalties for inflation).

For purposes of the current adjustments, the Commission multiplies each civil penalty that was raised in 2009 by a COLA of 0.064. For those civil penalties set in 2003 and unchanged in 2009, the Commission multiplies each civil penalty by a COLA of 0.249.¹² Next, the Commission applies the statutory rounding formula to each of these raw increases. The resulting rounded increase is then added to the current civil penalty to determine the new raw civil penalty. Finally, the statutory 10% penalty cap is applied as necessary, i.e., to penalties that the Commission is adjusting this year for the first time. The actual adjustment to each civil penalty is shown in the schedules in the rule text, below.

The \$6,050 civil penalty in 11 CFR 111.43(c) was adjusted in 2009,¹³ so the Commission multiplies it by a COLA of 0.064. Because of the rounding rules, this civil penalty will not change this year.

The penalty in 11 CFR 111.44 was last adjusted in 2005,¹⁴ so the Commission multiplies it by a COLA of 0.18.¹⁵ Because of the rounding rules, this civil penalty will not change this year.

Certification of No Effect Pursuant to 5 U.S.C. 605(b) (Regulatory Flexibility Act)

The provisions of the Regulatory Flexibility Act are not applicable to this final rule because the Commission was not required to publish a notice of proposed rulemaking or to seek public comment under 5 U.S.C. 553 or any other laws. 5 U.S.C. 603(a), 604(a). Therefore, no regulatory flexibility analysis is required.

List of Subjects in 11 CFR Part 111

Administrative practice and procedures, Elections, Law enforcement, Penalties.

For the reasons set out in the preamble, the Federal Election Commission amends subchapter A of chapter I of title 11 of the *Code of Federal Regulations* as follows:

PART 111—COMPLIANCE PROCEDURE (2 U.S.C. 437g, 437d(a))

■ 1. The authority citation for part 111 continues to read as follows:

Authority: 2 U.S.C. 432(i), 437g, 437d(a), 438(a)(8); 28 U.S.C. 2461 nt.

■ 2. Section 111.24 is amended by revising paragraph (a)(2)(ii) to read as follows:

§ 111.24 Civil Penalties (2 U.S.C. 437g(a)(5), (6), (12), 28 U.S.C. 2461 nt.).

- (a) * * *
- (2) * * *

(ii) Notwithstanding paragraph (a)(2)(i) of this section, in the case of a

⁸ See 2009 Adjustment, 74 FR at 31347.

⁹ U.S. Dep’t of Labor, Bureau of Labor Statistics, Consumer Price Index: All Urban Consumers (May 16, 2013), available at [ftp://ftp.bls.gov/pub/special.requests/cpi/cpi.i.txt](http://ftp.bls.gov/pub/special.requests/cpi/cpi.i.txt).

¹⁰ Election sensitive reports are certain reports due shortly before an election. See 11 CFR 111.43(d)(1).

¹¹ A report is considered to be “not filed” if it is never filed or is filed more than a certain number of days after its due date. See 11 CFR 111.43(e).

¹² The CPI for June 2012 (229.478) divided by the CPI for June 2003 (183.7) equals an increase of 24.9%.

¹³ See 2009 Adjustment, 74 FR at 37161 (correcting amount to \$6,050).

¹⁴ See 2005 Adjustment, 70 FR at 34635; Explanation and Justification for Final Rules on Administrative Fines, 65 FR 31787, 31793 (May 19, 2000); see also 2009 Adjustment, 74 FR at 31347 (not adjusting this penalty due to rounding rules).

¹⁵ The CPI for June 2012 (229.478) divided by the CPI for June 2005 (194.5) equals an increase of 18%.

knowing and willful violation of 2 U.S.C. 441f, the civil penalty shall not be less than 300% of the amount of any contribution involved in the violation and shall not exceed the greater of

\$65,000 or 1,000% of the amount of any contribution involved in the violation.

* * * * *

■ 3. Section 111.43 is amended by revising paragraphs (a) and (b) to read as follows:

§ 111.43 What are the schedules of penalties?

(a) The civil money penalty for all reports that are filed late or not filed, except election sensitive reports and pre-election reports under 11 CFR 104.5, shall be calculated in accordance with the following schedule of penalties:

If the level of activity in the report was:	And the report was filed late, the civil money penalty is:	Or the report was not filed, the civil money penalty is:
\$1–4,999.99 ^a	[\$27.50 + (\$5 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$275 × [1 + (.25 × Number of previous violations)].
\$5,000–9,999.99	[\$55 + (\$5 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$330 × [1 + (.25 × Number of previous violations)].
\$10,000–24,999.99	[\$110 + (\$5 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$550 × [1 + (.25 × Number of previous violations)].
\$25,000–49,999.99	[\$200 + (\$20 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$1090 × [1 + (.25 × Number of previous violations)].
\$50,000–74,999.99	[\$330 + (\$92.50 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$2970 × [1 + (.25 × Number of previous violations)].
\$75,000–99,999.99	[\$440 + (\$110 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$3850 × [1 + (.25 × Number of previous violations)].
\$100,000–149,999.99	[\$660 + (\$125 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$4950 × [1 + (.25 × Number of previous violations)].
\$150,000–199,999.99	[\$980 + (\$150 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$6050 × [1 + (.25 × Number of previous violations)].
\$200,000–249,999.99	[\$1100 + (\$175 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$7150 × [1 + (.25 × Number of previous violations)].
\$250,000–349,999.99	[\$1500 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$9800 × [1 + (.25 × Number of previous violations)].
\$350,000–449,999.99	[\$2000 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$10,900 × [1 + (.25 × Number of previous violations)].
\$450,000–549,999.99	[\$2750 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$10,450 × [1 + (.25 × Number of previous violations)].
\$550,000–649,999.99	[\$3300 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$11,000 × [1 + (.25 × Number of previous violations)].
\$650,000–749,999.99	[\$3850 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$11,550 × [1 + (.25 × Number of previous violations)].
\$750,000–849,999.99	[\$4400 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$12,100 × [1 + (.25 × Number of previous violations)].
\$850,000–949,999.99	[\$4950 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$12,650 × [1 + (.25 × Number of previous violations)].
\$950,000 or over	[\$5500 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$13,200 × [1 + (.25 × Number of previous violations)].

^a The civil money penalty for a respondent who does not have any previous violations will not exceed the level of activity in the report.

(b) The civil money penalty for election sensitive reports that are filed late or not filed shall be calculated in

accordance with the following schedule of penalties:

If the level of activity in the report was:	And the report was filed late, the civil money penalty is:	Or the report was not filed, the civil money penalty is:
\$1–\$4,999.99 ^a	[\$55 + (\$10 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$550 × [1 + (.25 × Number of previous violations)].
\$5,000–\$9,999.99	[\$110 + (\$10 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$660 × [1 + (.25 × Number of previous violations)].
\$10,000–24,999.99	[\$150 + (\$10 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$1090 × [1 + (.25 × Number of previous violations)].
\$25,000–49,999.99	[\$330 + (\$27.50 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$1,400 × [1 + (.25 × Number of previous violations)].
\$50,000–74,999.99	[\$495 + (\$92.50 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$3300 × [1 + (.25 × Number of previous violations)].
\$75,000–99,999.99	[\$660 + (\$110 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$4400 × [1 + (.25 × Number of previous violations)].
\$100,000–149,999.99	[\$1090 + (\$125 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$5500 × [1 + (.25 × Number of previous violations)].
\$150,000–199,999.99	[\$1200 + (\$150 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$6600 × [1 + (.25 × Number of previous violations)].
\$200,000–249,999.99	[\$1500 + (\$175 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$9250 × [1 + (.25 × Number of previous violations)].

If the level of activity in the report was:	And the report was filed late, the civil money penalty is:	Or the report was not filed, the civil money penalty is:
\$250,000–349,999.99	[\$2475 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$10,900 × [1 + (.25 × Number of previous violations)].
\$350,000–449,999.99	[\$3300 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$11,000 × [1 + (.25 × Number of previous violations)].
\$450,000–549,999.99	[\$4125 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$12,100 × [1 + (.25 × Number of previous violations)].
\$550,000–649,999.99	[\$4950 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$13,200 × [1 + (.25 × Number of previous violations)].
\$650,000–749,999.99	[\$5775 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$14,300 × [1 + (.25 × Number of previous violations)].
\$750,000–849,999.99	[\$6600 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$15,400 × [1 + (.25 × Number of previous violations)].
\$850,000–949,999.99	[\$7425 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$16,500 × [1 + (.25 × Number of previous violations)].
\$950,000 or over	[\$9250 + (\$200 × Number of days late)] × [1 + (.25 × Number of previous violations)].	\$17,600 × [1 + (.25 × Number of previous violations)].

^a The civil money penalty for a respondent who does not have any previous violations will not exceed the level of activity in the report.

* * * * *

On behalf of the Commission.
Dated: July 18, 2013.

Ellen L. Weintraub,
Chair, Federal Election Commission.
[FR Doc. 2013–17703 Filed 7–23–13; 8:45 am]
BILLING CODE 6715–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0638; Directorate Identifier 2013–SW–026–AD; Amendment 39–17519; AD 2013–15–03]

RIN 2120–AA64

Airworthiness Directives; Eurocopter France (Eurocopter) Helicopters

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for Eurocopter Model AS350B, AS350BA, AS350B1, AS350B2, AS350B3, AS350C, AS350D, and AS350D1 helicopters with a single hydraulic system and a certain hydraulic pump drive installed. This AD requires inspecting the hydraulic pump drive pulley bearing (pulley bearing) for leaks, rust, overheating, and condition. This AD is prompted by six reports of hydraulic pump drive belt failure caused by seizure of the pulley bearing. These actions are intended to prevent hydraulic pump drive belt failure, loss of hydraulic servo assistance, and subsequent loss of control of the helicopter.

DATES: This AD becomes effective August 8, 2013.

We must receive comments on this AD by September 23, 2013.

ADDRESSES: You may send comments by any of the following methods:

- *Federal eRulemaking Docket:* Go to <http://www.regulations.gov>. Follow the online instructions for sending your comments electronically.

- *Fax:* 202–493–2251.
- *Mail:* Send comments to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

- *Hand Delivery:* Deliver to the “Mail” address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

You may examine the AD docket on the Internet at <http://www.regulations.gov> or in person at the Docket Operations Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the foreign authority’s AD, the economic evaluation, any comments received, and other information. The street address for the Docket Operations Office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

For service information identified in this AD, contact American Eurocopter Corporation, 2701 N. Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at <http://www.eurocopter.com/techpub>. You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region,

2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

FOR FURTHER INFORMATION CONTACT: Matt Wilbanks, Aviation Safety Engineer, Regulations and Policy Group, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5110; email matt.wilbanks@faa.gov.

SUPPLEMENTARY INFORMATION:

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not provide you with notice and an opportunity to provide your comments prior to it becoming effective. However, we invite you to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that resulted from adopting this AD. The most helpful comments reference a specific portion of the AD, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit them only one time. We will file in the docket all comments that we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this rulemaking during the comment period. We will consider all the comments we receive and may conduct additional rulemaking based on those comments.

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Emergency AD No. 2013–0044–E, dated February 27,