

Art, from on or about November 20, 2013, until on or about March 9, 2014, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** For further information, including a list of the exhibit objects, contact Paul W. Manning, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202-632-6469). The mailing address is U.S. Department of State, SA-5, L/DP, Fifth Floor (Suite 5H03), Washington, DC 20522-0505.

Dated: August 27, 2013.

**Lee Satterfield,**

*Deputy Assistant Secretary for Professional and Cultural Exchanges, Bureau of Educational and Cultural Affairs, Department of State.*

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## DEPARTMENT OF STATE

[Public Notice 8447]

### Foreign Affairs Policy Board Meeting Notice: Closed Meeting; Notice of Rescheduling

The meeting of the Foreign Affairs Policy Board, formerly scheduled for September 9, 2013, has been rescheduled to September 11, 2013. See 78 FR 51266, for the prior notice for the meeting as well as the Department's closed meeting determination.

For more information, contact Samantha Raddatz at (202)-647-2972.

Dated: August 27, 2013.

**Andrew McCracken,**

*Designated Federal Officer.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

#### Uniform Fine Assessment Version 4.0 Software; Calculating Amounts of Civil Penalties for Violations of Regulations

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice.

**SUMMARY:** FMCSA announces that the Agency has begun using the Uniform Fine Assessment (UFA) Version 4.0 software to calculate the amounts of civil penalties for violations of the Federal Motor Carrier Safety

Regulations (FMCSRs) and Hazardous Materials Regulations (HMRs). FMCSA is required to consider certain statutory factors when proposing civil penalties for violations of the FMCSRs and HMRs and since the mid-1990's FMCSA has used its UFA software to consider those statutory factors. FMCSA has updated the UFA software to ensure that it adequately considers the statutory penalty factors for all statutes and regulations enforced by FMCSA; to implement the Agency's policy for consideration of the Small Business Regulatory Enforcement Fairness Act; and, to ensure uniformity in proposed civil penalties. UFA 4.0 software also considers the factors set forth in 49 U.S.C. 521(b)(2)(D) for violations of regulations where no statutory factors are otherwise specified by statute. To enhance transparency of the civil penalty calculation, UFA 4.0 generates a report detailing the calculations used to propose civil penalties. While UFA 4.0 is used to calculate the majority of civil penalties proposed by FMCSA, the Agency may propose a civil penalty outside of UFA 4.0 when the proposed civil penalty calculated by UFA 4.0 would not promote enhanced commercial motor vehicle safety or induce prompt and sustained compliance. In such cases, the Agency will nevertheless consider the applicable statutory factors to assess a penalty. This **Federal Register** Notice supersedes the **Federal Register** Notice issued by FMCSA entitled, "Civil Penalty Calculation Methodology." 76 FR 71431, November 17, 2011.

**DATES:** The UFA 4.0 software will be used to calculate penalties based on investigations that are initiated on or after August 12, 2013.

**FOR FURTHER INFORMATION CONTACT:** Peter Hines, Office of Chief Counsel, Federal Motor Carrier Safety Administration, 4749 Lincoln Mall Drive, Suite 300, Matteson, IL 60443, by telephone at (708) 283-3568 or via email at [peter.hines@dot.gov](mailto:peter.hines@dot.gov). Office hours are from 9 a.m. to 5 p.m. CT, Monday through Friday, except Federal holidays.

#### SUPPLEMENTARY INFORMATION:

##### Background

Under 49 U.S.C. 521(b)(2)(D), 5123(c), 14901(c), 31138 and 31139, FMCSA must consider specific prescribed factors in determining the amount of civil penalties assessed for violations of the statutes and regulations for which FMCSA has enforcement authority. The purpose of the UFA 4.0 software is to assist FMCSA in ensuring uniformity and fairness in the application of

mandatory statutory factors in calculating proposed civil penalties for violations of the FMCSRs, HMRs, commercial regulations, rules concerning minimum levels of financial responsibility, registration regulations, and other statutes and regulations enforced by FMCSA. The software is designed to ensure that statutory, regulatory, and administrative policies are considered in determining each penalty assessment, to promote uniformity in assessments throughout FMCSA, and to create transparent and easily understood assessments. UFA 4.0 is not intended to assess the same civil penalty for the same violations against every motor carrier, but to assess a penalty that is consistent between carriers of similar circumstances.

FMCSA has used its UFA software to calculate penalties since the mid-1990's. Under a long line of administrative decisions, starting with *Alfred Chew & Martha Chew, dba Alfred & Martha Chew Trucking*, FHW-1996-5323 (Final Order, Feb. 7 1996), FMCSA and its predecessor agency have held that UFA is presumed to properly consider the statutory penalty factors under 49 U.S.C. 521(b)(2)(D), 49 U.S.C. 5123(c), and 49 U.S.C. 31138 and 31139.

UFA 4.0 simplifies the algorithm previously used to calculate proposed penalties. The software also incorporates the increased penalties mandated by The Moving Ahead for Progress in the 21st Century Act (MAP-21), Public Law 112-141 (July 6, 2012). UFA 4.0 takes into account the factors set forth in 49 U.S.C. 521(b)(2)(D) for violations of the FMCSRs, 49 U.S.C. 5123(c) for violations of the HMRs, 49 U.S.C. 14901(c) for violations concerning transportation of household goods, and 49 U.S.C. 31138 and 31139 for violations of regulations related to financial responsibility.

Congress has not delineated statutory penalty factors (other than minimum and/or maximum penalties) for violations of operating authority registration requirements, other commercial regulations (49 CFR Parts 360-379) and Commercial Driver's License regulations (Parts 382 and 383). FMCSA has determined that the use of the statutory factors in 49 U.S.C. 521(b) (the factors used to assess penalties for violations of FMCSRs) are appropriate for these violations as well as for any other statutory or regulatory violations where Congress has not identified any specific factors the Agency is required to consider in assessing civil penalties. Use of the statutory factors promotes uniformity and consistency in the Agency's determination of the appropriate amount of civil penalties.