This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are key to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Part 1083

[Docket No.: CFPB–2016–0028]

RIN 3170–AA62

Civil Penalty Inflation Adjustments

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Interim final rule with request for public comment.

SUMMARY: The Bureau of Consumer Financial Protection (Bureau) is publishing for public comment an interim final rule to adjust the civil monetary penalties within the Bureau’s jurisdiction for inflation, as required by the Federal Civil Penalties Inflation Adjustment Act of 1990 (the Inflation Adjustment Act or the Act), as amended by the Debt Collection Improvement Act of 1996 and further amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (2015 Act).

DATES: This rule is effective on July 14, 2016. Comments must be received on or before July 14, 2016.

ADDRESSES: You may submit comments, identified by Docket No. CFPB–2016–0028 or RIN 3170–AA62, by any of the following methods:

Email: FederalRegisterComments@cfpb.gov. Include Docket No. CFPB–2016–0028 or RIN 3170–AA62 in the subject line of the email.

Electronic: http://www.regulations.gov. Follow the instructions for submitting comments.

Mail: Monica Jackson, Office of the Executive Secretary, Consumer Financial Protection Bureau, 1275 First Street NE., Washington, DC 20552.

Hand Delivery/Courier: Monica Jackson, Office of the Executive Secretary, Consumer Financial Protection Bureau, 1275 First Street NE., Washington, DC 20002.

Instructions: All submissions should include the agency name and docket number or Regulatory Information Number (RIN) for this rulemaking. Because paper mail in the Washington, DC area and at the Bureau is subject to delay, commenters are encouraged to submit comments electronically. In general, all comments received will be posted without change to http://www.regulations.gov. In addition, comments will be available for public inspection and copying at 1275 First Street NE., Washington, DC 20002, on official business days between the hours of 10 a.m. and 5 p.m. eastern time. You can make an appointment to inspect the documents by telephoning (202) 435–7275.

All comments, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. Sensitive personal information, such as account numbers or Social Security numbers, should not be included. Comments generally will not be edited to remove any identifying or contact information.

FOR FURTHER INFORMATION CONTACT:

Kristin Bateman, Counsel, Legal Division, Consumer Financial Protection Bureau, at (202) 435–7700.

SUPPLEMENTARY INFORMATION:

I. Background

The Inflation Adjustment Act, as amended by the 2015 Act, requires Federal agencies to adjust the civil penalty amounts within their jurisdiction for inflation by July 1, 2016, and then by January 15 every year thereafter. Agencies must make the initial 2016 adjustments through an interim final rulemaking published in the Federal Register. Under the amended Act, any increase in a civil penalty made under the Act will apply to penalties assessed after the increase takes effect, including penalties whose associated violation predated the increase. The inflation adjustments mandated by the Act serve to maintain the deterrent effect of civil penalties and to promote compliance with the law.

II. Method of Calculation

The Inflation Adjustment Act prescribes a specific method for calculating the inflation adjustments. As amended by the 2015 Act, the Act provides that the maximum (and minimum, if applicable) amounts for each civil penalty must be increased by the “cost-of-living adjustment,” a term that the Act defines. For purposes of the initial adjustments that agencies must make by July 1, 2016, the “cost-of-living adjustment” is defined as the percentage increase in the Consumer Price Index between (1) October of the calendar year during which the civil penalty amount was established or adjusted under a provision of law other than the Inflation Adjustment Act and (2) October 2015. The Consumer Price Index to be used for purposes of this calculation is the Consumer Price Index for all urban consumers (CPI–U) published by the Department of Labor. The Office of Management and Budget (OMB) has published guidance for implementing this requirement. OMB’s guidance memorandum provides multipliers that agencies should use to adjust penalty amounts based on the year the penalty was established or last adjusted under authority other than the Inflation Adjustment Act.

To determine the new penalty amount, the agency must apply the multiplier reflecting the “cost-of-living adjustment” to the penalty amount as it was most recently established or adjusted under a provision of law other than the Inflation Adjustment Act.

3 The inflation adjustment is based on the inflation rate in the August of the calendar year during which the penalty was assessed and the inflation rate in August 2015.


7 OMB’s guidance memorandum provides multipliers that agencies should use to adjust penalty amounts based on the year the penalty was established or last adjusted under authority other than the Inflation Adjustment Act.

8 The multipliers reflecting the “cost-of-living adjustment” are rounded to five decimal places. The Bureau has used the OMB multipliers in calculating its civil penalty adjustments.
than the Inflation Adjustment Act. The agency must then round that amount to the nearest dollar. The increase made by this initial adjustment may not exceed 150 percent of the penalty amount in effect on the date the 2015 Act was enacted, November 2, 2015.

### III. Description of the Interim Final Rule

This interim final rule establishes the inflation-adjusted maximum amounts for each civil penalty within the Bureau’s jurisdiction. The following table lists the civil penalties within the Bureau’s jurisdiction and summarizes the relevant information needed to calculate the inflation adjustments pursuant to the statutory method.

<table>
<thead>
<tr>
<th>Law</th>
<th>Penalty description</th>
<th>Penalty amount as established or last adjusted under a provision other than the inflation adjustment act</th>
<th>Year penalty established or last adjusted under a provision other than the inflation adjustment act</th>
<th>Penalty amount in effect on November 2, 2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Consumer Financial Protection Act, 12 U.S.C. 5565(c)(2)(A).</td>
<td>Tier 1 penalty ...............</td>
<td>$5,000</td>
<td>2010</td>
<td>$5,000</td>
</tr>
<tr>
<td>Consumer Financial Protection Act, 12 U.S.C. 5565(c)(2)(B).</td>
<td>Tier 2 penalty ...............</td>
<td>25,000</td>
<td>2010</td>
<td>25,000</td>
</tr>
<tr>
<td>Consumer Financial Protection Act, 12 U.S.C. 5565(c)(2)(C).</td>
<td>Tier 3 penalty ...............</td>
<td>1,000,000</td>
<td>2010</td>
<td>1,000,000</td>
</tr>
<tr>
<td>Interstate Land Sales Full Disclosure Act, 15 U.S.C. 1717a(a)(2).</td>
<td>Per violation ...............</td>
<td>1,000</td>
<td>2010</td>
<td>1,000</td>
</tr>
<tr>
<td>Interstate Land Sales Full Disclosure Act, 15 U.S.C. 1717a(a)(2).</td>
<td>Annual cap ...................</td>
<td>1,000,000</td>
<td>2010</td>
<td>1,000,000</td>
</tr>
<tr>
<td>Real Estate Settlement Procedures Act, 12 U.S.C. 2609(d)(1).</td>
<td>Per failure .................</td>
<td>50</td>
<td>2010</td>
<td>50</td>
</tr>
<tr>
<td>Real Estate Settlement Procedures Act, 12 U.S.C. 2609(d)(1).</td>
<td>Annual cap ...................</td>
<td>100,000</td>
<td>2010</td>
<td>100</td>
</tr>
<tr>
<td>Real Estate Settlement Procedures Act, 12 U.S.C. 2609(d)(2)(A).</td>
<td>Per failure, where inten-</td>
<td>100</td>
<td>2010</td>
<td>100</td>
</tr>
<tr>
<td>SAFE Act, 12 U.S.C. 5113(d)(2) ....................................</td>
<td>Per violation ...............</td>
<td>25,000</td>
<td>2008</td>
<td>25,000</td>
</tr>
<tr>
<td>Truth in Lending Act, 15 U.S.C. 1639(e)(k)(1) ..................</td>
<td>First violation .............</td>
<td>10,000</td>
<td>2010</td>
<td>10,000</td>
</tr>
<tr>
<td>Truth in Lending Act, 15 U.S.C. 1639(e)(k)(2) ..................</td>
<td>Subsequent violations ......</td>
<td>20,000</td>
<td>2010</td>
<td>20,000</td>
</tr>
</tbody>
</table>

The Bureau followed the procedure outlined above in part II to calculate the adjusted civil penalty amounts. In accordance with the statutory requirements and OMB guidance, the Bureau multiplied each penalty amount as established or last adjusted under a provision other than the Inflation Adjustment Act by the OMB multiplier corresponding to the appropriate year, and then rounded that amount to the nearest dollar, to calculate the new, inflation-adjusted civil penalty amount. The Bureau then confirmed that the amount by which each civil penalty increased did not exceed 150 percent of the corresponding civil penalty level in effect on November 2, 2015. None of the increases exceeded this 150-percent threshold. The following chart summarizes the results of these calculations:

<table>
<thead>
<tr>
<th>Law</th>
<th>Penalty description</th>
<th>Penalty amount as established or last adjusted under a provision other than the inflation adjustment act</th>
<th>Year penalty established or last adjusted under a provision other than the inflation adjustment act</th>
<th>OMB “cost-of-living adjustment” multiplier</th>
<th>New penalty amount</th>
</tr>
</thead>
</table>

8 In rounding to the nearest dollar, the Bureau has rounded down where the digit immediately following the decimal point is less than 5 and has rounded up where the digit immediately following the decimal point is 5 or greater.


This rule codifies these civil penalty amounts by adding new part 1083 to title 12 of the CFR and new § 1083.1 therein.

IV. Legal Authority and Effective Date

The Bureau issues this rule under the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996 and further amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, which requires the Bureau to adjust the civil penalties within its jurisdiction for inflation, as required by the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996 and further amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015. The amendments in this interim final rule are technical, and they merely apply the statutory method for adjusting civil penalty amounts. For these reasons, the Bureau has determined that publishing a notice of proposed rulemaking and providing opportunity for public comment are unnecessary. Moreover, the statute expressly requires the Bureau to make these initial adjustments through an interim final rulemaking to be published by July 1, 2016, and OMB’s guidance confirms that agencies need not complete a notice-and-comment process before promulgating the rule. Therefore, the amendments are adopted in final form.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required, the Regulatory Flexibility Act does not require an initial or final regulatory flexibility analysis.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995, the Bureau reviewed this interim final rule. No collections of information pursuant to the Paperwork Reduction Act are contained in the interim final rule.

List of Subjects in 12 CFR Part 1083

Administrative practice and procedure, Consumer protection, Penalties.

Authority and Issuance

For the reasons set forth in the preamble, the Bureau adds part 1083 to chapter X in title 12 of the Code of Federal Regulations to read as set forth below:

PART 1083—CIVIL PENALTY ADJUSTMENTS

Sec. 1083.1 Adjustments of civil penalty amounts.


§ 1083.1 Adjustments of civil penalty amounts.

(a) The maximum amount of each civil penalty within the jurisdiction of the Consumer Financial Protection Bureau to impose is adjusted in accordance with the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996 and further amended by the Federal

36 See 5 U.S.C. 553(d).
40 5 U.S.C. 603(c), 604(a).
41 44 U.S.C. 3506; 5 CFR 1320.
Civil Penalties Inflation Adjustment Act Improvements Act of 2015, (28 U.S.C. 2461 note) as follows:

<table>
<thead>
<tr>
<th>U.S. code citation</th>
<th>Civil penalty description</th>
<th>Adjusted maximum civil penalty amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>12 U.S.C. 5565(c)(2)(A)</td>
<td>Tier 1 penalty</td>
<td>$5,437</td>
</tr>
<tr>
<td>12 U.S.C. 5565(c)(2)(B)</td>
<td>Tier 2 penalty</td>
<td>27,186</td>
</tr>
<tr>
<td>12 U.S.C. 5565(c)(2)(C)</td>
<td>Tier 3 penalty</td>
<td>1,087,450</td>
</tr>
<tr>
<td>15 U.S.C. 1717a(a)(2)</td>
<td>Per violation</td>
<td>1,894</td>
</tr>
<tr>
<td>15 U.S.C. 1717a(a)(2)</td>
<td>Annual cap</td>
<td>1,893,610</td>
</tr>
<tr>
<td>12 U.S.C. 2609(d)(1)</td>
<td>Per failure</td>
<td>89</td>
</tr>
<tr>
<td>12 U.S.C. 2609(d)(1)</td>
<td>Annual cap</td>
<td>178,156</td>
</tr>
<tr>
<td>12 U.S.C. 2609(d)(2)(A)</td>
<td>Per failure, where intentional</td>
<td>178</td>
</tr>
<tr>
<td>12 U.S.C. 5113(d)(2)</td>
<td>Per violation</td>
<td>27,455</td>
</tr>
<tr>
<td>15 U.S.C. 1639e(k)(1)</td>
<td>First violation</td>
<td>10,875</td>
</tr>
<tr>
<td>15 U.S.C. 1639e(k)(2)</td>
<td>Subsequent violations</td>
<td>21,749</td>
</tr>
</tbody>
</table>

(b) The adjustments in paragraph (a) of this section shall apply to civil penalties assessed after July 14, 2016, regardless of when the violation for which the penalty is assessed occurred.

Dated: June 7, 2016.

Richard Cordray,
Director, Bureau of Consumer Financial Protection.

[FR Doc. 2016–14031 Filed 6–13–16; 8:45 am]
BILLING CODE 4810–AM–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 1, 11, 121, 125, and 135

Office of the Secretary

14 CFR Part 382

[Doocket No.: FAA–2014–0554; Amdt. Nos. 1–69; 11–60; 121–374, 125–65, 135–133]

RIN 2120–AK32

Acceptance Criteria for Portable Oxygen Concentrators Used On Board Aircraft; Correction

AGENCY: Federal Aviation Administration (FAA) and the Office of the Secretary (OST), Department of Transportation (DOT).

ACTION: Final rule; correction.

SUMMARY: This final rule replaces the existing process by which the Federal Aviation Administration (Agency or FAA) approves portable oxygen concentrators (POC) for use on board aircraft in air carrier operations, commercial operations, and certain other operations using large aircraft. The FAA currently assesses each POC make and model on a case-by-case basis and if the FAA determines that a particular POC is safe for use on board an aircraft, the FAA conducts rulemaking to identify the specific POC model in an FAA regulation. This final rule replaces the current process and allows passengers to use a POC on board an aircraft if the POC satisfies certain acceptance criteria and bears a label indicating conformance with the acceptance criteria. The labeling requirement only affects POCs intended for use on board aircraft that were not previously approved for use on aircraft by the FAA. Additionally, this rulemaking will eliminate redundant operational requirements and paperwork requirements related to the physician’s statement. As a result, this rulemaking will reduce burdens for POC manufacturers, passengers who use POCs while traveling, and affected aircraft operators. This final rule also makes conforming amendments to the Department of Transportation’s (Department or DOT) rule implementing the Air Carrier Access Act (ACAA) to require carriers to accept all POC models that meet FAA acceptance criteria as detailed in this rule.

DATES: This correction will become effective on June 23, 2016.

FOR FURTHER INFORMATION CONTACT: For technical questions concerning this action, contact DK Deaderick, 121 Air Carrier Operations Branch, Air Transportation Division, Flight Standards Service, Federal Aviation Administration, AFS–220, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–7480; email dk.deaderick@faa.gov. For questions regarding the Department’s disability regulation (14 CFR part 382), contact Cleréece Kroha, Senior Attorney, Office of Aviation Enforcement and Proceedings, Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366–9041; email cleréece.kroha@dot.gov.

SUPPLEMENTARY INFORMATION:

Background

On May 24, 2016, the FAA published a final rule entitled, “Acceptance Criteria for Portable Oxygen Concentrators Used On Board Aircraft” (81 FR 33098).

This final rule affects the use of POCs on board aircraft in operations conducted under title 14 of the Code of Federal Regulations (14 CFR) parts 121, 125, and 135, by replacing the existing FAA case-by-case approval process for each make and model of POC in Special Federal Aviation Regulation (SFAR) No. 106, with FAA acceptance criteria. Under SFAR No. 106, each time the FAA approves a specific model of POC for use on board aircraft, the agency updates the list of approved POCs in the SFAR.

This final rule removes SFAR No. 106 and replaces it with POC acceptance criteria and specific labeling requirements to identify POCs that conform to the acceptance criteria. POCs that conform to the final rule acceptance criteria will be allowed on board aircraft without additional FAA review and rulemaking.

As with existing requirements for FAA approval of POCs that may be used on aircraft, the final rule acceptance criteria and labeling requirement only apply to POCs intended for use on board aircraft. Table 1 provides a comparison of the final rule acceptance criteria and labeling requirement with related SFAR No. 106.

However, the final rule was published with an incorrect amendment number, “11–59,” which is the same amendment number as the rule entitled “Administrative Practices and Procedures, Reporting and Recordkeeping Requirements” (81 FR 13969), published on March 16, 2016. The correct amendment number for this rule should be “11–60.”