

Rules and Regulations

Federal Register

Vol. 82, No. 8

Thursday, January 12, 2017

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed 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

Civil Penalty Inflation Adjustments

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Final rule.

SUMMARY: The Bureau of Consumer Financial Protection (Bureau) is adjusting for inflation the maximum amount of each civil penalty within the Bureau’s jurisdiction. These adjustments are required by the Federal Civil Penalties Inflation Adjustment Act of 1990 (the Inflation Adjustment 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. The inflation adjustments mandated by the Inflation Adjustment Act serve to maintain the deterrent effect of civil penalties and to promote compliance with the law.

DATES: This final rule is effective January 15, 2017.

FOR FURTHER INFORMATION CONTACT: Jaclyn Maier, Counsel, Office of Regulations, Consumer Financial Protection Bureau, 1700 G Street NW., Washington, DC 20552, at (202) 435–7700.

SUPPLEMENTARY INFORMATION:

I. Background

The Inflation Adjustment Act,¹ as amended by the Debt Collection Improvement Act of 1996² and further amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015,³ directs Federal agencies to adjust for inflation the civil penalty amounts within their jurisdiction not later than July 1, 2016, and then not later than January 15 every year thereafter.⁴ 28 U.S.C. 2461 note. Each agency was required to make the 2016 one-time catch-up adjustments through an interim final rule published in the **Federal Register**. On June 14, 2016, the Bureau published its interim final rule to make the initial catch-up adjustments to civil penalties within the Bureau’s jurisdiction.⁵ The June 2016 interim final rule created a new part 1083 and in § 1083.1 established the inflation-adjusted maximum amounts for each civil penalty within the Bureau’s jurisdiction.⁶ The Inflation Adjustment Act also requires subsequent adjustments to be made annually, not later than January 15, and

notwithstanding section 553 of the Administrative Procedure Act (APA).⁷

Specifically, Federal agencies are directed to adjust annually each civil penalty provided by law within the jurisdiction of the agency by the “cost-of-living adjustment.”⁸ For annual adjustments after the initial catch up adjustments, the “cost-of-living adjustment” is defined as the percentage (if any) by which the Consumer Price Index for All Urban Consumers (CPI–U) for the month of October preceding the date of the adjustment, exceeds the CPI–U for October of the prior year.⁹ The Director of the Office of Management and Budget (OMB) is required to issue guidance (OMB Guidance) to agencies on implementing the annual civil penalty inflation adjustments by December 15, 2016, and December 15 every subsequent year.¹⁰ Pursuant to the Inflation Adjustment Act and OMB Guidance, agencies must apply the multiplier reflecting the “cost-of-living adjustment” to the current penalty amount and then round that amount to the nearest dollar to determine the annual adjustments.¹¹

For the 2017 annual adjustment, the multiplier reflecting the “cost-of-living adjustment” is 1.01636.¹² Pursuant to the Inflation Adjustment Act and OMB Guidance, the Bureau multiplied each of its civil penalty amounts by the “cost-of-living adjustment” multiplier and rounded to the nearest dollar.¹³

The new penalty amounts that apply to civil penalties assessed after January 15, 2017 are as follows:

Law	Penalty description	Penalty amounts established under June 2016 interim final rule	OMB “Cost-of-living adjustment” multiplier	New penalty amount
Consumer Financial Protection Act, 12 U.S.C. 5565(c)(2)(A)	Tier 1 penalty	\$5,437	1.01636	\$5,526
Consumer Financial Protection Act, 12 U.S.C. 5565(c)(2)(B)	Tier 2 penalty	27,186	1.01636	27,631

¹ Public Law 101–410, 104 Stat. 890.

² Public Law 104–134, section 31001(s)(1), 110 Stat. 1321, 1321–373.

³ Public Law 114–74, section 701, 129 Stat. 584, 599.

⁴ Section 1301(a) of the Federal Reports Elimination Act of 1998, Public Law 105–362, 112 Stat. 3293, also amended the Inflation Adjustment Act by striking section 6, which contained annual reporting requirements, and redesignating section 7 as section 6, but did not alter the civil penalty adjustment requirements.

⁵ 81 FR 38569 (June 14, 2016). Although the Bureau was not obligated to solicit comments for the interim final rule, the Bureau invited public comment and received none.

⁶ See 12 CFR 1083.1.

⁷ Inflation Adjustment Act section 4, *codified at* 28 U.S.C. 2461 note.

⁸ Inflation Adjustment Act sections 4 and 5, *codified at* 28 U.S.C. 2461 note.

⁹ Inflation Adjustment Act sections 3 and 5, *codified at* 28 U.S.C. 2461 note.

¹⁰ Memorandum from Shaun Donovan, Director, Office of Management and Budget, to the Heads of Executive Departments and Agencies (Dec. 16, 2016), https://www.whitehouse.gov/sites/default/files/omb/memoranda/2017/m-17-11_0.pdf.

¹¹ Inflation Adjustment Act section 5, *codified at* 28 U.S.C. 2461 note; Memorandum from Shaun Donovan, Director, Office of Management and Budget, to the Heads of Executive Departments and

Agencies (Dec. 16, 2016), https://www.whitehouse.gov/sites/default/files/omb/memoranda/2017/m-17-11_0.pdf.

¹² Memorandum from Shaun Donovan, Director, Office of Management and Budget, to the Heads of Executive Departments and Agencies (Dec. 16, 2016), https://www.whitehouse.gov/sites/default/files/omb/memoranda/2017/m-17-11_0.pdf. The multiplier reflecting the “cost-of-living adjustment” that OMB provides is rounded to five decimal places.

¹³ 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.

Law	Penalty description	Penalty amounts established under June 2016 interim final rule	OMB "Cost-of-living adjustment" multiplier	New penalty amount
Consumer Financial Protection Act, 12 U.S.C. 5565(c)(2)(C)	Tier 3 penalty	1,087,450	1.01636	1,105,241
Interstate Land Sales Full Disclosure Act, 15 U.S.C. 1717a(a)(2).	Per violation	1,894	1.01636	1,925
Interstate Land Sales Full Disclosure Act, 15 U.S.C. 1717a(a)(2).	Annual cap	1,893,610	1.01636	1,924,589
Real Estate Settlement Procedures Act, 12 U.S.C. 2609(d)(1)	Per failure	89	1.01636	90
Real Estate Settlement Procedures Act, 12 U.S.C. 2609(d)(1)	Annual cap	178,156	1.01636	181,071
Real Estate Settlement Procedures Act, 12 U.S.C. 2609(d)(2)(A).	Per failure, where intentional	178	1.01636	181
SAFE Act, 12 U.S.C. 5113(d)(2)	Per violation	27,455	1.01636	27,904
Truth in Lending Act, 15 U.S.C. 1639e(k)(1)	First violation	10,875	1.01636	11,053
Truth in Lending Act, 15 U.S.C. 1639e(k)(2)	Subsequent violations	21,749	1.01636	22,105

II. Legal Authority

The Bureau issues this final rule under the Inflation Adjustment Act,¹⁴ as amended by the Debt Collection Improvement Act of 1996¹⁵ and further amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015,¹⁶ which requires the Bureau to adjust for inflation the civil penalties within its jurisdiction according to a statutorily prescribed formula.

III. Procedural Requirements

A. Administrative Procedure Act

Under the APA, notice and opportunity for public comment are not required if the Bureau finds that notice and public comment are impracticable, unnecessary, or contrary to the public interest.¹⁷ Pursuant to this final rule, § 1083.1 is amended to update the civil penalty amounts. The 2017 adjustments to the civil penalty amounts are technical and non-discretionary, and they merely apply the statutory method for adjusting civil penalty amounts. These adjustments are required by the Inflation Adjustment Act. Moreover, the Inflation Adjustment Act directs agencies to adjust the civil penalties annually notwithstanding section 553 of the APA,¹⁸ and OMB Guidance reaffirms that agencies need not complete a notice-and-comment process before making the annual adjustments for inflation.¹⁹ For these reasons, the Bureau has determined that publishing a notice of proposed rulemaking and providing opportunity for public

comment are unnecessary. Therefore, the amendment is adopted in final form.

Section 553(d) of the APA generally requires publication of a final rule not less than 30 days before its effective date, except (1) a substantive rule which grants or recognizes an exemption or relieves a restriction; (2) interpretive rules and statements of policy; or (3) as otherwise provided by the agency for good cause found and published with the rule.²⁰ At a minimum, the Bureau believes the annual adjustments to the civil penalty amounts in § 1083.1 fall under the third exception to section 553(d). The Bureau finds that there is good cause to make the amendments effective on January 15, 2017. The amendments to § 1083.1 in this final rule are technical and non-discretionary, and they merely apply the statutory method for adjusting civil penalty amounts and follow the statutory directive to make annual adjustments by January 15 of each year. Moreover, the Inflation Adjustment Act directs agencies to adjust the civil penalties annually notwithstanding section 553 of the APA,²¹ and OMB Guidance reaffirms that agencies need not provide a delay in effective date for the annual adjustments for inflation.²²

B. 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.²³

C. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995,²⁴ the Bureau

reviewed this final rule. No collections of information pursuant to the Paperwork Reduction Act are contained in the 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 above, the Bureau amends 12 CFR part 1083, as set forth below:

PART 1083—CIVIL PENALTY ADJUSTMENTS

■ 1. The authority citation for part 1083 continues to read as follows:

Authority: 12 U.S.C. 2609(d); 12 U.S.C. 5113(d)(2); 12 U.S.C. 5565(c); 15 U.S.C. 1639e(k); 15 U.S.C. 1717a(a); 28 U.S.C. 2461 note.

■ 2. Section 1083.1 is revised to read as follows:

§ 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 Civil Penalties Inflation Adjustment Act Improvements Act of 2015, (28 U.S.C. 2461 note) as follows:

¹⁴ Public Law 101–410, 104 Stat. 890.

¹⁵ Public Law 104–134, section 31001(s)(1), 110 Stat. 1321, 1321–373.

¹⁶ Public Law 114–74, section 701, 129 Stat. 584, 599.

¹⁷ 5 U.S.C. 553(b)(B).

¹⁸ Inflation Adjustment Act section 4, *codified* at 28 U.S.C. 2461 note.

¹⁹ Memorandum from Shaun Donovan, Director, Office of Management and Budget, to the Heads of Executive Departments and Agencies (Dec. 16, 2016), https://www.whitehouse.gov/sites/default/files/omb/memoranda/2017/m-17-11_0.pdf.

²⁰ 5 U.S.C. 553(d).

²¹ Inflation Adjustment Act section 4, *codified* at 28 U.S.C. 2461 note.

²² Memorandum from Shaun Donovan, Director, Office of Management and Budget, to the Heads of Executive Departments and Agencies (Dec. 16, 2016), https://www.whitehouse.gov/sites/default/files/omb/memoranda/2017/m-17-11_0.pdf.

²³ 5 U.S.C. 603(a), 604(a).

²⁴ 44 U.S.C. 3506; 5 CFR 1320.

U.S. Code citation	Civil penalty description	Adjusted maximum civil penalty amount
12 U.S.C. 5565(c)(2)(A)	Tier 1 penalty	\$5,526
12 U.S.C. 5565(c)(2)(B)	Tier 2 penalty	27,631
12 U.S.C. 5565(c)(2)(C)	Tier 3 penalty	1,105,241
15 U.S.C. 1717a(a)(2)	Per violation	1,925
15 U.S.C. 1717a(a)(2)	Annual cap	1,924,589
12 U.S.C. 2609(d)(1)	Per failure	90
12 U.S.C. 2609(d)(1)	Annual cap	181,071
12 U.S.C. 2609(d)(2)(A)	Per failure, where intentional	181
12 U.S.C. 5113(d)(2)	Per violation	27,904
15 U.S.C. 1639e(k)(1)	First violation	11,053
15 U.S.C. 1639e(k)(2)	Subsequent violations	22,105

(b) The adjustments in paragraph (a) of this section shall apply to civil penalties assessed after January 15, 2017, regardless of when the violation for which the penalty is assessed occurred.

Dated: January 4, 2017.

Richard Cordray,

Director, Bureau of Consumer Financial Protection.

[FR Doc. 2017-00521 Filed 1-9-17; 4:15 pm]

BILLING CODE 4810-AM-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31112; Amdt. No. 3727]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule establishes, amends, suspends, or removes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures (ODPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective January 12, 2017. The compliance date for each SIAP, associated Takeoff Minimums,

and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the **Federal Register** as of January 12, 2017.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination

1. U.S. Department of Transportation, Docket Ops-M30, 1200 New Jersey Avenue SE., West Bldg., Ground Floor, Washington, DC 20590-0001.

2. The FAA Air Traffic Organization Service Area in which the affected airport is located;

3. The office of Aeronautical Navigation Products, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. 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.

Availability

All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit the National Flight Data Center at nfdc.faa.gov to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from the FAA Air Traffic Organization Service Area in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Thomas J. Nichols, Flight Procedure Standards Branch (AFS-420), Flight Technologies and Programs Divisions, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082, Oklahoma City, OK 73125) Telephone: (405) 954-4164.

SUPPLEMENTARY INFORMATION: This rule amends Title 14 of the Code of Federal Regulations, Part 97 (14 CFR part 97), by establishing, amending, suspending, or removes SIAPs, Takeoff Minimums and/or ODPS. The complete regulatory description of each SIAP and its associated Takeoff Minimums or ODP for an identified airport is listed on FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR part § 97.20. The applicable FAA forms are FAA Forms 8260-3, 8260-4, 8260-5, 8260-15A, and 8260-15B when required by an entry on 8260-15A.

The large number of SIAPs, Takeoff Minimums and ODPs, their complex nature, and the need for a special format make publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, Takeoff Minimums or ODPs, but instead refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP, Takeoff Minimums and ODP listed on FAA form documents is unnecessary. This amendment provides the affected CFR sections and specifies the types of SIAPs, Takeoff Minimums and ODPs with their applicable effective dates. This amendment also identifies the airport and its location, the procedure, and the amendment number.

Availability and Summary of Material Incorporated by Reference

The material incorporated by reference is publicly available as listed in the **ADDRESSES** section.

The material incorporated by reference describes SIAPs, Takeoff Minimums and/or ODPS as identified in the amendatory language for part 97 of this final rule.