

# Rules and Regulations

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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.

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## DEPARTMENT OF EDUCATION

### 2 CFR Part 3474

### 34 CFR Parts 99, 200, and 299

[Docket ID ED-2016-OESE-0032; Docket ID ED-2015-OS-0105]

RIN 1810-AB27; 1894-AA07

### Elementary and Secondary Education Act of 1965, as Amended by the Every Student Succeeds Act—Accountability and State Plans; Open Licensing Requirement for Competitive Grant Programs; Family Educational Rights and Privacy Act

AGENCY: Office of Elementary and Secondary Education; Office of the

Chief Privacy Officer, Office of Management; Office of the Secretary; Department of Education.

**ACTION:** Final regulations; delay of effective dates.

**SUMMARY:** In accordance with the memorandum of January 20, 2017, from the Assistant to the President and Chief of Staff, entitled “Regulatory Freeze Pending Review,” published in the **Federal Register** on January 24, 2017, the Department delays the effective dates of the following regulations until March 21, 2017: Elementary and Secondary Education Act of 1965, as Amended by the Every Student Succeeds Act—Accountability and State Plans (ESSA Accountability and State Plans), RIN 1810-AB27; Open Licensing Requirement for Competitive Grant Programs (Open Licensing), RIN 1894-AA07; and Family Educational Rights and Privacy Act.

**DATES:** Effective January 30, 2017, the effective date of the final rules published on November 29, 2016 at 81 FR 86076; January 19, 2017 at 82 FR 7376; and January 19, 2017 at 82 FR 6252, respectively, is delayed to March 21, 2017.

**FOR FURTHER INFORMATION CONTACT:**

Hilary Malawer, Assistant General Counsel, U.S. Department of Education, 400 Maryland Avenue SW., Room 6E231, Washington, DC 20202. Telephone: (202) 401-6148 or by email: [hilary.malawer@ed.gov](mailto:hilary.malawer@ed.gov).

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**SUPPLEMENTARY INFORMATION:** On January 20, 2017, the Assistant to the President and Chief of Staff issued a memorandum entitled, “Regulatory Freeze Pending Review.” This memorandum directed heads of executive departments and agencies to take certain steps to ensure that the President’s appointees and designees have the opportunity to review new or pending regulations. It instructed agencies to temporarily postpone the effective dates of regulations that had been published in the **Federal Register** but were not yet effective until 60 days after the date of the memorandum (January 20, 2017). In accordance with that directive, the Department is delaying the effective dates of the regulations listed below as follows:

RIN	Title	Agency contact	Original effective date	Delayed effective date
1810-AB27 .....	ESSA—Accountability and State Plans.	Meredith Miller, OESE (202) 401-8368 <a href="mailto:Meredith.Miller@ed.gov">Meredith.Miller@ed.gov</a> .	January 30, 2017 ....	March 21, 2017.
1894-AA07 .....	Open Licensing Requirement for Competitive Grant Programs.	Sharon Leu, Office of the Secretary (202) 453-5646 <a href="mailto:tech@ed.gov">tech@ed.gov</a> .	March 20, 2017 .....	March 21, 2017.
2017-00958 .....	Family Educational Rights and Privacy Act.	Kathleen Styles, Office of Management (855) 249-3072 <a href="mailto:PrivacyTA@ed.gov">PrivacyTA@ed.gov</a> .	February 21, 2017 ..	March 21, 2017.

This is the first of several regulatory actions the Department intends to take regarding regulations that have been published in the **Federal Register** but had not taken effect as of January 20, 2017, including the Department’s regulations for Borrower Defense (RIN 1840-AD19), TEACH Grants (RIN 1840-AD07), and State Authorization (RIN 1840-AD20) issued under title IV of the Higher Education Act of 1965, as amended.

**Waiver of Rulemaking and Delayed Effective Date:** Under the Administrative Procedure Act (APA) (5 U.S.C. 553), the Department generally offers interested parties the opportunity to comment on proposed regulations and publishes rules not less than 30

days before their effective dates. However, the APA provides that an agency is not required to conduct notice-and-comment rulemaking or delay effective dates when the agency, for good cause, finds that the requirement is impracticable, unnecessary, or contrary to the public interest (5 U.S.C. 553(b)(B) and (d)(3)). There is good cause to waive both of these requirements here as the President’s appointees and designees need to delay the effective dates of these regulations to have adequate time to review new or pending regulations, and neither the notice and comment processes nor delayed effective date could be implemented in time to allow for this review.

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### List of Subjects

#### 2 CFR Part 3474

Accounting; Administrative practice and procedure; Adult education; Aged; Agriculture; American Samoa; Bilingual education; Blind; Business and industry; Civil rights; Colleges and universities; Communications; Community development; Community facilities; Copyright; Credit; Cultural exchange programs; Educational facilities; Educational research; Education; Education of disadvantaged; Education of individuals with disabilities; Educational study programs; Electric power; Electric power rates; Electric utilities; Elementary and secondary education; Energy conservation; Equal educational opportunity; Federally affected areas; Government contracts; Grant programs; Grant programs-agriculture; Grant programs-business and industry; Grant programs-communications; Grant programs-education; Grant programs-energy; Grant programs-health; Grant programs-housing and community development; Grant programs-social programs; Grant administration; Guam; Home improvement; Homeless; Hospitals; Housing; Human research subjects; Indians; Indians-education; Infants and children; Insurance; Intergovernmental relations; International organizations; Inventions and patents; Loan programs; Loan programs social programs; Loan programs-agriculture; Loan programs-business and industry; Loan programs-communications; Loan programs-energy; Loan programs-health; Loan programs-housing and community development; Manpower training programs; Migrant labor; Mortgage insurance; Nonprofit organizations; Northern Mariana Islands; Pacific Islands Trust Territories; Privacy; Renewable Energy; Reporting and recordkeeping requirements; Rural areas; Scholarships and fellowships; School construction; Schools; Science and technology; Securities; Small businesses; State and local governments; Student aid; Teachers; Telecommunications; Telephone; Urban areas; Veterans; Virgin Islands;

Vocational education; Vocational rehabilitation; Waste treatment and disposal; Water pollution control; Water resources; Water supply; Watersheds; Women.

#### 34 CFR Part 99

Administrative practice and procedure; Privacy; Reporting and recordkeeping requirements; Students.

#### 34 CFR Part 200

Elementary and secondary education; Grant programs-education; Indians-education; Infants and children; Juvenile delinquency; Migrant labor; Private schools; Reporting and recordkeeping requirements.

#### 34 CFR Part 299

Administrative practice and procedure; Elementary and secondary education; Grant programs-education; Private schools; Reporting and recordkeeping requirements.

Dated: January 26, 2017.

**Philip H. Rosenfelt,**

*Acting Secretary of Education.*

[FR Doc. 2017-02056 Filed 1-27-17; 8:45 am]

**BILLING CODE 4000-01-P**

## FARM CREDIT SYSTEM INSURANCE CORPORATION

### 12 CFR Part 1411

**RIN 3055-AA13**

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

**AGENCY:** Farm Credit System Insurance Corporation.

**ACTION:** Final rule.

**SUMMARY:** This rule implements inflation adjustments to civil money penalties (CMPs) that the Farm Credit System Insurance Corporation (FCSIC) may impose under the Farm Credit Act of 1971, as amended. These adjustments are required by 2015 amendments to the Federal Civil Penalties Inflation Adjustment Act of 1990.

**DATES:** This rule will become effective January 30, 2017.

**FOR FURTHER INFORMATION CONTACT:** Howard Rubin, General Counsel, Farm Credit System Insurance Corporation, 1501 Farm Credit Drive, McLean, Virginia 22102, (703) 883-4380, TTY (703) 883-4390.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

The Federal Civil Penalties Inflation Adjustment Act Improvements Act of

2015 (the 2015 Act) amended the Federal Civil Penalties Inflation Adjustment Act of 1990 (the Inflation Adjustment Act)<sup>1</sup> to improve the effectiveness of civil monetary penalties and to maintain their deterrent effect. The Inflation Adjustment Act provides for the regular evaluation of CMPs and requires FCSIC, and every other Federal agency with authority to impose CMPs, to ensure that CMPs continue to maintain their deterrent values.<sup>2</sup>

FCSIC must enact regulations that annually adjust its CMPs pursuant to the inflation adjustment formula of the amended Inflation Adjustment Act and rounded using a method prescribed by the Inflation Adjustment Act. The new amounts will apply to penalties assessed on or after the effective date of this rule. Agencies do not have discretion in choosing whether to adjust a CMP, by how much to adjust a CMP, or the methods used to determine the adjustment.

##### B. CMPs Imposed Pursuant to Section 5.65 of the Farm Credit Act

First, section 5.65(c) of the Farm Credit Act, as amended (Act), provides that any insured Farm Credit System bank that willfully fails or refuses to file any certified statement or pay any required premium shall be subject to a penalty of not more than \$100 for each day that such violations continue, which penalty FCSIC may recover for its use.<sup>3</sup> Second, section 5.65(d) of the Act provides that, except with the prior written consent of the Farm Credit Administration, it shall be unlawful for any person convicted of any criminal offense involving dishonesty or a breach of trust to serve as a director, officer, or employee of any System institution.<sup>4</sup> For each willful violation of section 5.65(d), the institution involved shall be subject to a penalty of not more than \$100 for each day during which the violation continues, which FCSIC may recover for its use.

FCSIC's current § 1411.1 provides that FCSIC can impose a maximum penalty

<sup>1</sup> Public Law 101-410, Oct. 5, 1990, 104 Stat. 890, as amended by Public Law 104-134, title III, sec. 31001(s)(1), Apr. 26, 1996, 110 Stat. 1321-373; Public Law 105-362, title XIII, sec. 1301(a), Nov. 10, 1998, 112 Stat. 3293; Public Law 114-74, title VII, sec. 701(b), Nov. 2, 2015, 129 Stat. 599.

<sup>2</sup> Under the amended Inflation Adjustment Act, a CMP is defined 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. All three requirements must be met for a fine to be considered a CMP.

<sup>3</sup> 12 U.S.C. 2277a-14(c).

<sup>4</sup> 12 U.S.C. 2277a-14(d).