

# 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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## FARM CREDIT SYSTEM INSURANCE CORPORATION

### 12 CFR Part 1411

RIN 3055-AA14

#### 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 is effective January 26, 2018.

**FOR FURTHER INFORMATION CONTACT:** Howard Rubin, General Counsel, Farm Credit System Insurance Corporation, (703) 883-4380, TTY (703) 883-4390, [rubinh@fcsic.gov](mailto:rubinh@fcsic.gov).

#### 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 of \$201 per day for a violation under section 5.65(c) and (d) of the Act.

##### C. Required Adjustments

The 2015 Act requires agencies to make annual adjustments for inflation. Annual inflation adjustments are based on the percent change between the October Consumer Price Index for all

Urban Consumers (CPI-U) preceding the date of the adjustment, and the prior year's October CPI-U. Based on the CPI-U for October 2017, not seasonally adjusted, the cost-of-living adjustment multiplier for 2018 is 1.02041.<sup>5</sup> Multiplying 1.02041 times the current penalty amount of \$201, after rounding to the nearest dollar as required by the 2015 Act, results in a new penalty amount of \$205.

##### D. Notice and Comment Not Required by Administrative Procedure Act

In accordance with the 2015 Act, Federal agencies shall adjust civil monetary penalties "notwithstanding" Section 553 of the Administrative Procedures Act. This means that public procedure generally required for agency rulemaking—notice, an opportunity for comment, and a delay in effective date—is not required for agencies to issue regulations implementing the annual adjustment.

##### List of Subjects in 12 CFR Part 1411

Banks, banking, Civil money penalties, Penalties.

For the reasons stated in the preamble, part 1411 of chapter XIV, title 12 of the Code of Federal Regulations is amended as follows:

#### PART 1411—RULES OF PRACTICE AND PROCEDURE

■ 1. The authority citation for part 1411 continues to read as follows:

**Authority:** 12 U.S.C. 2277a-7(10), 2277a-14(c) and (d); 28 U.S.C. 2461 note.

■ 2. Revise § 1411.1 to read as follows:

**§ 1411.1 Inflation adjustment of civil money penalties for failure to file a certified statement, pay any premium required or obtain approval before employment of persons convicted of criminal offenses.**

In accordance with the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended, a civil money penalty imposed pursuant to section 5.65(c) or (d) of the Farm Credit Act of 1971, as amended, shall not exceed \$205 per day for each day the violation continues.

<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).

<sup>5</sup> See Office of Management and Budget Memorandum M-18-03 (December 15, 2017).

Dated: January 23, 2018.

**Dale L. Aultman,**

*Secretary to the Board, Farm Credit System Insurance Corporation.*

[FR Doc. 2018-01421 Filed 1-25-18; 8:45 am]

**BILLING CODE 6710-01-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

**[Docket No. FAA-2017-0716; Product Identifier 2016-NM-165-AD; Amendment 39-19165; AD 2018-02-12]**

**RIN 2120-AA64**

#### Airworthiness Directives; Airbus Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** We are superseding Airworthiness Directive (AD) 2016-02-01, which applied to certain Airbus Model A320-211, -212, and -231 airplanes. AD 2016-02-01 required repetitive inspections to detect cracks of the pressurized floor fittings at a certain frame, and renewal of the zone protective finish or replacement of fittings with new fittings if necessary. AD 2016-02-01 also provided an optional modification that was terminating action for the repetitive inspections. This new AD retains the requirements of AD 2016-02-01, and requires accomplishment of the modification that was optional in AD 2016-02-01. This AD was prompted by the results of an additional fatigue analysis of cracking of the pressurized floor fittings and a determination that the optional modification should become a required action. We are issuing this AD to address the unsafe condition on these products.

**DATES:** This AD is effective March 2, 2018.

The Director of the Federal Register approved the incorporation by reference of certain other publications listed in this AD as of March 3, 2016 (81 FR 4878, January 28, 2016).

**ADDRESSES:** For service information identified in this final rule, contact Airbus, Airworthiness Office—EIAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone: +33 5 61 93 36 96; fax: +33 5 61 93 44 51; email: [account.airworth-eas@airbus.com](mailto:account.airworth-eas@airbus.com); internet: <http://www.airbus.com>. You may view this referenced service information at the

FAA, Transport Standards Branch, 1601 Lind Avenue SW, Renton, WA. For information on the availability of this material at the FAA, call 425-227-1221. It is also available on the internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2017-0716.

#### Examining the AD Docket

You may examine the AD docket on the internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2017-0716; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (telephone: 800-647-5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** Sanjay Ralhan, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 1601 Lind Avenue SW, Renton, WA 98057-3356; telephone: 425-227-1405; fax: 425-227-1149.

#### SUPPLEMENTARY INFORMATION:

##### Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2016-02-01, Amendment 39-18380 (81 FR 4878, January 28, 2016) (“AD 2016-02-01”). AD 2016-02-01 applied to certain Airbus Model A320-211, -212, and -231 airplanes. The NPRM published in the *Federal Register* on August 15, 2017 (82 FR 38618).

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2016-0181, dated September 13, 2016 (referred to after this as the Mandatory Continuing Airworthiness Information, or “the MCAI”), to correct an unsafe condition for certain Airbus Model A320-211, -212, and -231 airplanes. The MCAI states:

During centre fuselage certification full scale fatigue testing, damage was found on the pressurized floor fittings at Frame (FR) 36, below the lower surface panel.

This condition, if not detected and corrected, could affect the structural integrity of the aeroplane.

To prevent such damage, Airbus developed modification 21282, which was introduced in production from MSN [manufacturer serial

number] 0105, to reinforce the pressurized floor fitting lower surface by changing material. For affected in-service aeroplanes, Airbus issued Service Bulletin (SB) A320-57-1028, introducing repetitive inspections, and SB A320-57-1029, which provides modification instructions.

DGAC [Direction Générale de l'Aviation Civile] France issued AD 95-099-067 to require these repetitive inspections and, depending on findings, corrective action(s), while the modification was specified in that [French] AD as optional terminating action for these inspections.

Following new analysis in the frame of Extended Service Goal exercise, the inspection thresholds and intervals were revised to meet the original Design Service Goal. Consequently, EASA issued AD 2013-0226 [which corresponds to FAA AD 2016-02-01 (81 FR 4878, January 28, 2016)] to retain the requirements of DGAC France AD 95-099-067, which was superseded, but required those actions within reduced compliance times.

Since that [EASA] AD was issued, in the frame of Widespread Fatigue Damages analysis, the situation has been reassessed and it has been decided to reclassify the modification, still stated as ‘optional’ terminating action in EASA AD 2013-0226, to the status ‘mandatory’.

For the reasons described above, this [EASA] AD retains the requirements of EASA AD 2013-0226, which is superseded, but requires embodiment of the modification as specified in Airbus SB A320-57-1029.

You may examine the MCAI in the AD docket on the internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2017-0716.

#### Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comment received on the NPRM and the FAA's response to that comment.

#### Request To Revise the Applicability

Allegiant Air noted that the applicability specified in paragraph (c) of the proposed AD included Airbus Model A320-214 airplanes. The commenter asked if Model A320-214 airplanes were included in the applicability in error. The commenter observed that neither the applicability of AD 2016-02-01 or EASA AD 2016-0181, nor the effectivity of Airbus Service Bulletin A320-57-1028, Revision 02, dated June 3, 2013, included Model A320-214 airplanes.

We infer that the commenter is requesting that Model A320-214 airplanes be removed from the applicability of the proposed AD. We agree, for the reasons provided by the commenter. This final rule is not applicable to Model A320-214 airplanes; therefore, we have revised the