

By the Commission.

**William Cody,**

Secretary.

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## NATIONAL TRANSPORTATION SAFETY BOARD

### 49 CFR Part 831

[Docket No.: NTSB-2022-0001]

RIN 3147-AA24

### Civil Monetary Penalty Annual Inflation Adjustment

**AGENCY:** National Transportation Safety Board (NTSB).

**ACTION:** Final rule.

**SUMMARY:** Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, this final rule provides the 2022 adjustment to the civil penalties that the agency may assess against a person for violating certain NTSB statutes and regulations.

**DATES:** This final rule is effective on January 14, 2022.

**ADDRESSES:** A copy of this final rule, published in the **Federal Register** (FR), is available at <https://www.regulations.gov> (Docket ID Number NTSB-2022-0001).

**FOR FURTHER INFORMATION CONTACT:** Kathleen Silbaugh, General Counsel, (202) 314-6080 or [rulemaking@ntsb.gov](mailto:rulemaking@ntsb.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (the 2015 Act) requires, in pertinent part, agencies to make an annual adjustment for inflation by January 15th every year. OMB, M-16-06, *Implementation of the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015* (Feb. 24, 2016). The Office of Management and Budget (OMB) annually publishes guidance on the adjustment multiplier to assist agencies in calculating the mandatory annual adjustments for inflation.

The NTSB's most recent adjustment was for fiscal year (FY) 2021, allowing the agency to impose a civil penalty up to \$1,742, effective January 15, 2021, on a person who violates 49 U.S.C. 1132 (Civil aircraft accident investigations), 1134(b) (Inspection, testing, preservation, and moving of aircraft and parts), 1134(f)(1) (Autopsies), or 1136(g) (Prohibited actions when providing assistance to families of passengers

involved in aircraft accidents). Civil Monetary Penalty Annual Inflation Adjustment, 86 FR 1809 (Jan. 11, 2021).

OMB has since published updated guidance for FY 2022. OMB, M-22-07, *Implementation of Penalty Inflation Adjustments for 2022, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015* (Dec. 15, 2021). Accordingly, this final rule reflects the NTSB's 2022 annual inflation adjustment and updates the maximum civil penalty from \$1,742 to \$1,850.

##### II. The 2022 Annual Adjustment

The 2022 annual adjustment is calculated by multiplying the applicable maximum civil penalty amount by the cost-of-living adjustment multiplier, which is based on the Consumer Price Index and rounding to the nearest dollar. OMB, M-22-07, *Implementation of Penalty Inflation Adjustments for 2022, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015* (Dec. 15, 2021). For FY 2022, OMB's guidance states that the cost-of-living adjustment multiplier is 1.06222.

Accordingly, multiplying the current penalty of \$1,742 by 1.06222 equals \$1,850.38724, which rounded to the nearest dollar equals \$1,850. This updated maximum penalty for the upcoming fiscal year applies only to civil penalties assessed after the effective date of this final rule. The next civil penalty adjustment for inflation will be calculated by January 15, 2023.

##### III. Regulatory Analysis

The Office of Information and Regulatory Affairs Administrator has determined agency regulations that exclusively implement the annual adjustment are consistent with OMB's annual guidance, and have an annual impact of less than \$100 million are generally not significant regulatory actions under Executive Order (E.O.) 12866. OMB, M-22-07, *Implementation of Penalty Inflation Adjustments for 2022, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015* (Dec. 15, 2021). An assessment of its potential costs and benefits under E.O. 12866, *Regulatory Planning and Review* and E.O. 13563, *Improving Regulation and Regulatory Review* is not required because this final rule is not a "significant regulatory action." Likewise, this rule does not require analyses under the Unfunded Mandates Reform Act of 1995 because this final rule is not significant.

The Regulatory Flexibility Act (5 U.S.C. 801 *et seq.*) requires each agency

to review its rulemaking to assess the potential impact on small entities, unless the agency determines a rule is not expected to have a significant economic impact on a substantial number of small entities. In accordance with 5 U.S.C. 605(b), the NTSB certifies that the final rule will not have a significant economic impact on a substantial number of small entities; only those entities that are determined to have violated Federal law and regulations would be affected by the increase in penalties made by this rule.

This final rule complies with all applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988 "Civil Justice Reform," to minimize litigation, eliminate ambiguity, and reduce burden. In addition, the NTSB has evaluated this rule under E.O. 12630, "Governmental Actions and Interference with Constitutionally Protected Property Rights"; and E.O. 13045, "Protection of Children from Environmental Health Risks and Safety Risks."

The NTSB does not anticipate this rule will have a substantial direct effect on state government or will preempt state law. Accordingly, this rule does not have implications for federalism under E.O. 13132, *Federalism*.

The NTSB also evaluated this rule under E.O. 13175, *Consultation and Coordination with Indian Tribal Governments*. The agency has concluded that this final rule will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

The Paperwork Reduction Act of 1995 is inapplicable because the final rule imposes no new information reporting or recordkeeping necessitating clearance by OMB.

The Regulatory Flexibility Act of 1980 does not apply because, as a final rule, this action is not subject to prior notice and comment. See 5 U.S.C. 604(a).

The NTSB has concluded that this final rule neither violates nor requires further consideration under the aforementioned Executive orders and acts.

##### List of Subjects in 49 CFR Part 831

Aircraft accidents, Aircraft incidents, Aviation safety, Hazardous materials transportation, Highway safety, Investigations, Marine safety, Pipeline safety, Railroad safety.

Accordingly, for the reasons stated in the Preamble, the NTSB amends 49 CFR part 831 as follows:

## PART 831—INVESTIGATION PROCEDURES

■ 1. The authority citation for part 831 continues to read as follows:

**Authority:** 49 U.S.C. 1113(f).

Section 831.15 also issued under Public Law 101–410, 104 Stat. 890, amended by Public Law 114–74, sec. 701, 129 Stat. 584 (28 U.S.C. 2461 note).

### § 831.15 [Amended]

■ 2. Amend § 831.15 by removing the dollar amount “\$1,742” and add in its place “\$1,850”.

**Jennifer Homendy,**  
*Chair.*

[FR Doc. 2022–00726 Filed 1–13–22; 8:45 am]

**BILLING CODE 7533–01–P**

## SURFACE TRANSPORTATION BOARD

### 49 CFR Part 1022

[Docket No. EP 716 (Sub-No. 7)]

### Civil Monetary Penalties—2022 Adjustment

**AGENCY:** Surface Transportation Board.

**ACTION:** Final rule.

**SUMMARY:** The Surface Transportation Board (Board) is issuing a final rule to implement the annual inflationary adjustment to its civil monetary penalties, pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015.

**DATES:** This final rule is effective January 14, 2022.

**FOR FURTHER INFORMATION CONTACT:**

Amy Ziehm at (202) 245–0391. Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877–8339.

**SUPPLEMENTARY INFORMATION:**

#### I. Background

The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (2015 Act), enacted as part of the Bipartisan Budget Act of 2015, Public Law 114–74, sec. 701, 129 Stat. 584, 599–601, requires agencies to adjust their civil penalties for inflation annually, beginning on July 1, 2016, and no later than January 15 of every year thereafter. In accordance with the 2015 Act, annual inflation adjustments are to be based on the percent change between the Consumer Price Index for all Urban Consumers (CPI–U) for October of the previous year and the October CPI–U of the year before that. Penalty level adjustments should be rounded to the nearest dollar.

#### II. Discussion

The statutory definition of civil monetary penalty covers various civil penalty provisions under the Rail (Part A); Motor Carriers, Water Carriers, Brokers, and Freight Forwarders (Part B); and Pipeline Carriers (Part C) provisions of the Interstate Commerce Act, as amended. The Board’s civil (and criminal) penalty authority related to rail transportation appears at 49 U.S.C. 11901–11908. The Board’s penalty authority related to motor carriers, water carriers, brokers, and freight forwarders appears at 49 U.S.C. 14901–14916. The Board’s penalty authority related to pipeline carriers appears at 49 U.S.C. 16101–16106.<sup>1</sup> The Board has regulations at 49 CFR pt. 1022 that codify the method set forth in the 2015 Act for annually adjusting for inflation the civil monetary penalties within the Board’s jurisdiction.

As set forth in this final rule, the Board is amending 49 CFR part 1022 to make an annual inflation adjustment to the civil monetary penalties in conformance with the requirements of the 2015 Act. The adjusted penalties set forth in the rule will apply only to violations that occur after the effective date of this regulation.

In accordance with the 2015 Act, the annual adjustment adopted here is calculated by multiplying each current penalty by the cost-of-living adjustment factor of 1.06222, which reflects the percentage change between the October 2021 CPI–U (276.589) and the October 2020 CPI–U (260.388). The table at the end of this decision shows the statutory citation for each civil penalty, a description of the provision, the adjusted statutory civil penalty level for 2021, and the adjusted statutory civil penalty level for 2022.

#### III. Final Rule

The final rule set forth at the end of this decision is being issued without notice and comment pursuant to the rulemaking provision of the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(B), which does not require that process “when the agency for good cause finds” that public notice and comment are “unnecessary.” Here, Congress has mandated that the agency make an annual inflation adjustment to its civil monetary penalties. The Board has no discretion to set alternative levels of adjusted civil monetary

<sup>1</sup> The Board also has various criminal penalty authority, enforceable in a federal criminal court. Congress has not, however, authorized federal agencies to adjust statutorily prescribed criminal penalty provisions for inflation, and this rule does not address those provisions.

penalties, because the amount of the inflation adjustment must be calculated in accordance with the statutory formula. Given the absence of discretion, the Board has determined that there is good cause to promulgate this rule without soliciting public comment and to make this regulation effective immediately upon publication.

#### IV. Regulatory Flexibility Statement

The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 601–612, generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Because the Board has determined that notice and comment are not required under the APA for this rulemaking, the requirements of the RFA do not apply.

#### V. Congressional Review Act

Pursuant to the Congressional Review Act, 5 U.S.C. 801–808, the Office of Information and Regulatory Affairs has designated this rule as a non-major rule, as defined by 5 U.S.C. 804(2).

#### VI. Paperwork Reduction Act

This final rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3521.

#### List of Subjects in 49 CFR Part 1022

Administrative practice and procedures, Brokers, Civil penalties, Freight forwarders, Motor carriers, Pipeline carriers, Rail carriers, Water carriers.

*It is ordered:*

1. The Board amends its rules as set forth in this decision. Notice of the final rule will be published in the **Federal Register**.

2. This decision is effective on its date of publication in the **Federal Register**.

Decided: January 10, 2022.

By the Board, Board Members Fuchs, Hedlund, Oberman, Primus, and Schultz.

**Stefan Rice,**

*Clearance Clerk.*

For the reasons set forth in the preamble, part 1022 of title 49, chapter X, of the Code of Federal Regulations is amended as follows:

### PART 1022—CIVIL MONETARY PENALTY INFLATION ADJUSTMENT

■ 1. Revise the authority citation for part 1022 to read as follows: