

approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rule is primarily administrative in nature and is intended to benefit small entities and private individuals by simplifying the requirements that, if followed, would enable them to take advantage of the technology available in the marketplace and on the Service's Internet Website to electronically generate certain immigration and naturalization forms. The number of small entities affected by this rule will not be substantial.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any 1-year, and it will not significantly or uniquely effect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Act of 1996. This rule will not result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Executive Order 12866

This rule is not considered by the Department of Justice, Immigration and Naturalization Service, to be a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review, and the Office of Management and Budget has waived its review process under section 6(a)(3)(A).

Executive Order 13132

This regulation will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation

of a federalism summary impact statement.

Executive Order 12988 Civil Justice Reform

This rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

List of Subjects in 8 CFR Part 299

Immigration, Reporting and recordkeeping requirements.

Accordingly, part 299 of chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 299—IMMIGRATION FORMS

1. The authority citation for part 299 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103; 8 CFR part 2.

- 2. Section 299.4, is amended by:
 - a. Revising paragraph (a)(2)(iv);
 - b. Revising the seventh sentence in paragraph (b)(1);
 - c. Removing paragraph (b)(3);
 - d. Revising the phrase "Room 5307" to "Room 4034" in paragraph (e).

The revisions read as follows:

§ 299.4 Reproduction of Public Use Forms by public and private entities.

- (a) * * *
- (2) * * *
- (iv) Paper specifications (White, standard copier or typing paper).
- (b) * * *
- (1) * * * An electronic reproduction of a multi page form does not need to match the head-to-head or head-to-foot printing configuration of the official form. * * *

* * * * *

Dated: October 4, 2000.

Doris Meissner,
Commissioner, Immigration and Naturalization Services.

[FR Doc. 00-26621 Filed 10-16-00; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Parts 509 and 510

[Docket No. 2000-89]

RIN 1550-AB41

Rules of Practice and Procedure for Adjudicatory Proceedings; Civil Money Penalty Inflation Adjustment

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Final rule.

SUMMARY: The Federal Civil Monetary Penalty Inflation Adjustment Act of 1990 requires all federal agencies with statutory authority to impose civil money penalties (CMPs) to evaluate and adjust those CMPs every four years. OTS last adjusted its CMP statutes in 1996. Consequently, OTS is issuing this final rule to implement the required adjustments to its CMP statutes. OTS is also moving its chart displaying adjusted CMPs to the part containing OTS's procedural rules for adjudicatory proceedings.

EFFECTIVE DATE: October 17, 2000.

FOR FURTHER INFORMATION CONTACT: Timothy P. Leary, Counsel (Banking & Finance), (202) 906-7170, Regulations and Legislation Division, Office of the Chief Counsel, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION:

I. Background

The Federal Civil Monetary Penalties Inflation Adjustment Act of 1990¹ (FCMPIAA) requires each agency to make inflationary adjustments to the CMPs in statutes that it administers.² Under the FCMPIAA, agencies must make those adjustments at least once every four years. OTS last adjusted its CMPs in 1996.³ An increased CMP applies only to violations that occur after the increase takes effect.

While the CMP statutes of many agencies provide for minimum and maximum penalty amount, all of OTS's CMP statutes provide only for a daily maximum amount. Today's rule therefore refers only to maximum CMPs. Today's increases in maximum CMPs may not necessarily affect the amount of any CMP that OTS may seek for a particular violation. OTS calculates each CMP on a case-by-case basis based upon a variety of factors (including the gravity of the violation, whether the violation was willful or recurring, and any harm to the depository institution). As a result, the maximums merely serve as a cap.

Under the statute, the agency determines the inflation adjustment by increasing the maximum CMP by a "cost-of-living" adjustment. The "cost-of-living" adjustment is the percentage by which the Consumer Price Index (CPI) for the month of June of the calendar year preceding the adjustment exceeds the CPI for the month of June

¹ 28 U.S.C. 2461 note.

² Some of OTS's CMPs are in a commonly administered statute, 12 U.S.C. 1818. Each agency that administers this statute is making identical adjustments.

³ 12 CFR 510.6; 61 FR 56118 (October 31, 1996).

of the calendar year in which the amount of the CMP was last set or adjusted. OTS must use the CPI for All Urban Consumers (CPI-U) published by the Department of Labor.

The statute contains specific rules for rounding any increase based on the size of the CMP. Agencies do not have discretion in choosing whether to adjust a maximum CMP, how much to adjust a maximum CMP, or the methods used to determine the adjustment.

II. Summary of Calculation

To explain the inflation adjustment calculation for CMP amounts that were last adjusted in 1996, we will use the following example. Under 12 U.S.C. 1818(i), as adjusted under 12 CFR 510.6, OTS may impose a daily maximum third-tier CMP not to exceed \$1,100,000 for violations of certain banking laws.

First, we determine the appropriate CPI-U. The statute requires OTS to use the CPI-U for June of the calendar year preceding the year of adjustment. Here, because we are adjusting CMPs in 2000, we use the CPI-U for June 1999, which was 166.2. We must also determine the CPI-U for June of the year the CMP was last set by law or adjusted for inflation. Because OTS last adjusted the CMPs under 12 U.S.C. 1818 in 1996, we use the CPI-U for June 1996, which was 156.7.

Second, we calculate the cost of living adjustment or inflation factor. To do this, we divide the CPI-U for June 1999 (166.2) by the CPI-U for June 1996 (156.7). Our result is 1.061 (*i.e.*, a 6.1 percent increase).

Third, we calculate the raw inflation adjustment. To do this, we multiply the maximum penalty amounts by the inflation factor. In our example, \$1,100,000 multiplied by the inflation factor of 1.061 equals \$1,167,100.

Fourth, we round the raw inflation amounts according to the rounding rules in section 5(a) of the FCMPIAA. Since we round only the increased amount, we calculate the increased amount by the subtracting the current maximum penalty amounts from the raw maximum inflation adjustments.

Accordingly, the increased amount for the maximum penalty in our example is \$67,100 (*i.e.*, \$1,167,100 less \$1,100,000). Under the rounding rules, if the penalty is greater than \$200,000, we round the increase to the nearest multiple of \$25,000. Therefore, the maximum penalty increase for our example is \$75,000.

Fifth, we add the rounded increase to the maximum penalty amount last set or adjusted. In our example, \$1,100,000 plus \$75,000 yields a maximum inflation adjusted penalty amount of

\$1,175,000.⁴ Today's chart also corrects minor errors in our earlier rule. The chart accompanying the 1996 adjustment misstated the amount of the CMP under 12 U.S.C. 1467a(i)(3) for violations of the Holding Company Act. The correct CMP in section 1467a(i)(3) is \$25,000, not \$5,000. The 1996 rule should have adjusted this \$25,000 amount to \$27,500. That figure is unchanged by today's computation. We have also added new references to two CMPs that were inadvertently omitted from the 1996 chart. These include CMPs under section 1467a (i)(2) (authorizing a CMP of \$25,000, which has been adjusted to \$27,500) and 12 U.S.C. 1884 (authorizing a CMP of \$100, which has been adjusted to \$110).

Finally, we have moved the CMP inflation adjustment regulation from 12 CFR Part 510 (Miscellaneous Organizational Regulations) to 12 CFR Part 509 (Rules of Practice and Procedure in Adjudicatory Proceedings). This relocation should make the chart easier to find.⁵

⁴ Three CMPs are subject to a slightly different treatment because the statutorily mandated computation and the rounding rules did not result in any adjustment in 1996. This affects the \$2,000 penalties under 12 U.S.C. 1464(v)(4) and 1467a(r)(1), and the \$350 penalty under 42 U.S.C. 4012a(f). Under the statute, we must use the CPI-U for June of the year when the penalty was "last set or adjusted." Because these penalties were not adjusted in 1996, we must use the CPI-U for year in which the CMP was last set by an enactment. The statute also limits the amount of the first adjustment to a maximum 10 percent increase.

The CMPs in sections 1464(v)(4) and 1467a(r)(1) were enacted as part of the Financial Institutions Reforms, Recovery, and Enforcement Act of 1989. Pub. L. No. 101-73, 103 Stat. 183 (August 9, 1989). The CPI-U for June 1989 was 124.1. Dividing the CPI-U for June 1999 (166.2) by 124.1 yields 1.3392. This factor applied to the \$2,000 CMP yields \$2,678, an increased penalty of \$678. Under the rounding rules, this increase must be rounded to the nearest \$1,000. Because this is the first time we have adjusted these CMPs, however, our adjustment cannot exceed 10% of the original CMP. Accordingly, we have increased the CMPs in sections 1464(v)(4) and 1467a(r)(1) by 10%, resulting in new CMPs of \$2,200.

The \$350 penalty in 42 U.S.C. 4012a(f) was enacted in the Riegle Community Development and Regulatory Improvement Act of 1994. Pub. L. No. 103-325, 108 Stat. 2160 (September 23, 1994). The CPI-U for June 1994 was 148.0. Dividing the CPI-U for June 1999 (166.2) by 148.0 yields 1.1229. This factor applied to the \$350 CMP yields \$393, an increased penalty of \$43. Under the rounding rules, this increase must be rounded to the nearest multiple of \$100. Because the nearest multiple of \$100 is zero, there is no adjustment.

⁵ The other federal banking agencies include their CMP inflation adjustment regulations in their rules of practice and procedure. See 12 CFR 19.240 (Office of the Comptroller of the Currency); 12 CFR 263.65 (Federal Reserve); 12 CFR 308.116 and 308.132 (Federal Deposit Insurance Corporation); 12 CFR 747.1001 (National Credit Union Administration).

III. Need for an Immediately Effective Final Rule

To issue a final rule without public notice and comment, an agency must find good cause that notice and comment are impracticable, unnecessary, or contrary to the public interest.⁶ To issue a rule that is immediately effective, the agency must also find good cause for dispensing with the 30-day delay required by the Administrative Procedure Act.⁷ Moreover, section 302 of the Riegle Community Development and Regulatory Improvement Act of 1994⁸ states that a final rule imposing new requirements must take effect on the first day of a calendar quarter following its publication. That section provides, however, that an agency may determine that the rule should take effect earlier upon a finding of good cause.

Under the statute, agencies must make the required CMP inflation adjustments: (1) According to the very specific formula in the statute; and (2) within four years of the last inflation adjustment, or by October 31, 2000. Agencies have no discretion as to the amount or timing of the adjustment. The regulation is ministerial, technical, and noncontroversial. Accordingly, OTS believes that notice and comment are unnecessary. For these same reasons, OTS believes that there is good cause to make this rule effective immediately upon publication.

IV. Regulatory Flexibility Act

An initial regulatory flexibility analysis under the Regulatory Flexibility Act (RFA) is required only when an agency must publish a general notice of proposed rulemaking.⁹ As already noted, OTS has determined that publication of a notice of proposed rulemaking is not necessary for this final rule. Accordingly, the RFA does not require an initial regulatory flexibility analysis. Nevertheless, OTS has considered the likely impact of the rule on small entities and believes that the rule will not have a significant impact on a substantial number of small entities.

V. Executive Order 12866

OTS has determined that this final rule does not constitute a "significant regulatory action" for purposes of Executive Order 12866.

⁶ 5 U.S.C. 553(b).

⁷ *Id.*

⁸ 12 U.S.C. 4802.

⁹ 5 U.S.C. 603.

VI. Unfunded Mandates Act of 1995

OTS had determined that the final rule will not result in expenditures by state, local, or tribal governments or by the private sector of \$100 million or more. Accordingly, this rulemaking is not subject to section 202 of the Unfunded Mandates Act.

List of Subjects

12 CFR Part 509

Administrative practice and procedure, Penalties.

12 CFR Part 510

Administrative practice and procedure.

Accordingly, OTS amends chapter V, title 12, Code of Federal Regulations as set forth below:

PART 509—RULES OF PRACTICE AND PROCEDURE IN ADJUDICATORY PROCEEDINGS

1. The authority citation for part 509 is revised to read as follows:

Authority: 5 U.S.C. 504, 554–557; 12 U.S.C. 1464, 1467, 1467a, 1468, 1817(j), 1818, 3349, 4717; 15 U.S.C. 78(l), 78o–5, 78u–2; 28

U.S.C. 2461 note; 31 U.S.C. 5321; 42 U.S.C. 4012a.

2. In § 509.103, add paragraph (c) to read as follows:

§ 509.103 Civil money penalties.

* * * * *

(c) *Inflation adjustment.* Under the Federal Civil Monetary Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note), OTS must adjust for inflation the civil monetary penalties in statutes that it administers. The following chart displays the adjusted civil money penalties. The amounts in this chart apply to violations that occur after October 17, 2000:

| U.S. Code citation | CMP description | New maximum amount |
|-------------------------------|---|--------------------|
| 12 U.S.C. 1464(v)(4) | Reports of Condition—1st Tier | \$2,200 |
| 12 U.S.C. 1464(v)(5) | Reports of Condition—2nd Tier | 22,000 |
| 12 U.S.C. 1464(v)(6) | Reports of Condition—3rd Tier | 1,175,000 |
| 12 U.S.C. 1467(d) | Refusal to Cooperate in Exam | 5,500 |
| 12 U.S.C. 1467a(i)(2) | Holding Company Act Violation | 27,500 |
| 12 U.S.C. 1467a(i)(3) | Holding Company Act Violation | 27,500 |
| 12 U.S.C. 1467a(r)(1) | Late/Inaccurate Reports—1st Tier | 2,200 |
| 12 U.S.C. 1467a(r)(2) | Late/Inaccurate Reports—2nd Tier | 22,000 |
| 12 U.S.C. 1467a(r)(3) | Late/Inaccurate Reports—3rd Tier | 1,175,000 |
| 12 U.S.C. 1817(j)(16)(A) ... | Change in Control—1st Tier | 5,500 |
| 12 U.S.C. 1817(j)(16)(B) ... | Change in Control—2nd Tier | 27,500 |
| 12 U.S.C. 1817(j)(16)(C) .. | Change in Control—3rd Tier | 1,175,000 |
| 12 U.S.C. 1818(i)(2)(A) | Violation of Law or Unsafe or Unsound Practice—1st Tier | 5,500 |
| 12 U.S.C. 1818(i)(2)(B) | Violation of Law or Unsafe or Unsound Practice—2nd Tier | 27,500 |
| 12 U.S.C. 1818(i)(2)(C) | Violation of Law or Unsafe or Unsound Practice—3rd Tier | 1,175,000 |
| 12 U.S.C. 1884 | Violation of Security Rules | 110 |
| 12 U.S.C. 3349(b) | Appraisals Violation—1st Tier | 5,500 |
| 12 U.S.C. 3349(b) | Appraisals Violation—2nd Tier | 27,500 |
| 12 U.S.C. 3349(b) | Appraisals Violation—3rd Tier | 1,175,000 |
| 42 U.S.C. 4012a(f) | Flood Insurance | 350/115,000 |

PART 510—MISCELLANEOUS ORGANIZATIONAL REGULATIONS

3. The authority citation for part 510 continues to read as follows:

Authority: 12 U.S.C. 1462a, 1463, 1464; Pub. L. 101–410, 104 Stat. 890; Pub. L. 104–134, 110 Stat. 1321–358.

§ 510.6 [Removed]

4. Section 510.6 is removed.

Dated: October 4, 2000.

By the Office of Thrift Supervision.

Ellen Seidman,

Director.

[FR Doc. 00–26336 Filed 10–16–00; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–CE–01–AD; Amendment 39–11923; AD 2000–20–12]

RIN 2120–AA64

Airworthiness Directives; Aerotechnik s.r.o. Model L 13 SEH VIVAT Sailplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to all Aerotechnik s.r.o. (Aerotechnik) Model L 13 SEH VIVAT sailplanes. This AD requires you to inspect the tail-fuselage hinge for strength requirements and damage, and also requires you to replace any hinge with damage or that does not meet strength requirements. This AD is the result of mandatory continuing airworthiness information (MCAI)

issued by the airworthiness authority for the Czech Republic. The actions specified by this AD are intended to detect and correct any tail-fuselage hinge that is damaged or has inadequate material characteristics. Any tail-fuselage hinge with damage or inadequate material characteristics could fail and result in loss of controlled flight.

DATES: This AD becomes effective on November 27, 2000.

The Director of the **Federal Register** approved the incorporation by reference of certain publications listed in the regulations as of November 27, 2000.

ADDRESSES: You may get the service information referenced in this AD from Aerotechnik s.r.o., 686 04 Kunovic, Czech Republic; telephone: +420 632 537 111; facsimile: +420 632 537 900. You may examine this information at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000–CE–01–AD, 901 Locust, Room 506, Kansas City,