

authority for this collection of information is contained in 47 U.S.C. 151, 152, 154, 154(i), 155(c), 157, 201, 202, 208, 214, 301, 302a, 303, 307, 308, 309, 310, 311, 314, 316, 319, 324, 331, 332, 333, 336, 534, 535 and 554.

**Nature and Extent of Confidentiality:** There is no need for confidentiality required with this collection of information.

**Privacy Impact Assessment:** Yes.

**Needs and Uses:** On July 20, 2015, the Commission released the *Part 1 R&O* in which it updated many of its Part 1 competitive bidding rules (*See Updating Part 1 Competitive Bidding Rules; Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions; Petition of DIRECTV Group, Inc. and EchoStar LLC for Expedited Rulemaking to Amend Section 1.2105(a)(2)(xi) and 1.2106(a) of the Commission's Rules and/or for Interim Conditional Waiver; Implementation of the Commercial Spectrum Enhancement Act and Modernization of the Commission's Competitive Bidding Rules and Procedures*, Report and Order, Order on Reconsideration of the First Report and Order, Third Order on Reconsideration of the Second Report and Order, and Third Report and Order, FCC 15–80, 30 FCC Rcd 7493 (2015), modified by *Erratum*, 30 FCC Rcd 8518 (2015) (*Part 1 R&O*)). Of relevance to the information collection at issue here, the Commission: (1) Implemented a new general prohibition on the filing of auction applications by entities controlled by the same individual or set of individuals (but with a limited exception for qualifying rural wireless partnerships); (2) modified the eligibility requirements for small business benefits, and updated the standardized schedule of small business sizes, including the gross revenues thresholds used to determine eligibility; (3) established a new bidding credit for eligible rural service providers; (4) adopted targeted attribution rules to prevent the unjust enrichment of ineligible entities; and (5) adopted rules prohibiting joint bidding arrangements with limited exceptions. The updated Part 1 rules apply to applicants seeking licenses and permits.

Additionally, on June 2, 2014, the Commission released the *Mobile Spectrum Holdings R&O*, in which the Commission updated its spectrum screen and established rules for its upcoming auctions of low-band spectrum. Of relevance to the information collection at issue here, the Commission stated that it could reserve spectrum in order to ensure against excessive concentration in holdings of

below-1-GHz spectrum (*In the Matter of Policies Regarding Mobile Spectrum Holdings, Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, FCC 14–63, Report and Order, 29 FCC Rcd 6133, 6190, para. 135 (2014) (*Mobile Spectrum Holdings R&O*). *See also Application Procedures for Broadcast Incentive Auction Scheduled to Begin on March 29, 2016; Technical Formulas for Competitive Bidding*, Public Notice, 30 FCC Rcd 11034, Appendix 3 (WTB 2015); *Wireless Telecommunications Bureau Releases Updated List of Reserve-Eligible Nationwide Service Providers in each PEA for the Broadcast Incentive Auction*, Public Notice, AU No. 14–252 (WTB 2016).

The Commission also revised the currently approved collection of information under OMB Control Number 3060–0798 to permit the collection of the additional information for Commission licenses and permits, pursuant to the rules and information collection requirements adopted by the Commission in the *Part 1 R&O* and the *Mobile Spectrum Holdings R&O*. As part of the collection, the Commission is now approved for the information collection and recordkeeping requirements associated with 47 CFR 1.2110(j), 1.2112(b)(2)(iii), 1.2112(b)(2)(v), 1.2112(b)(2)(vii), and 1.2112(b)(2)(viii). Also, in certain circumstances, the Commission requires the applicant to provide copies of their agreements and/or submit exhibits.

In addition, the Commission is now approved for various other, non-substantive editorial/consistency edits and updates to FCC Form 601 that correct inconsistent capitalization of words and other typographical errors, and better align the text on the form with the text in the Commission rules both generally and in connection with recent non-substantive, organizational amendments to the Commission's rules.

Federal Communications Commission.

**Gloria J. Miles,**

*Federal Register Liaison Officer, Office of the Secretary.*

[FR Doc. 2016–15819 Filed 7–1–16; 8:45 am]

**BILLING CODE 6712–01–P**

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

#### 49 CFR Part 578

[Docket No. NHTSA–2016–0075]

RIN 2127–AL73

#### Civil Penalties

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

**ACTION:** Interim final rule.

**SUMMARY:** This interim final rule updates the maximum civil penalty amounts for violations of statutes and regulations administered by NHTSA pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvement Act of 2015. This final rule also amends our regulations to reflect the new civil penalty amounts for violations of the National Traffic and Motor Vehicle Safety (the Safety Act) Act authorized by the Fixing America's Surface Transportation Act (FAST Act).

**DATES:** *Effective date:* This rule is effective August 4, 2016.

*Petitions for reconsideration:* Petitions for reconsideration of this final rule must be received not later than August 19, 2016.

**ADDRESSES:** Any petitions for reconsideration should refer to the docket number of this document and be submitted to: Administrator, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE., West Building, Fourth Floor, Washington, DC 20590.

#### FOR FURTHER INFORMATION CONTACT:

Thomas Healy, Office of Chief Counsel, NHTSA, telephone (202) 366–2992, facsimile (202) 366–3820, 1200 New Jersey Ave SE., Washington, DC 20590.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On November 2, 2015, the Federal Civil Penalties Inflation Adjustment Act Improvement Act (the 2015 Act), Pub. L. 114–74, Section 701, was signed into law. The purpose of the 2015 Act is to improve the effectiveness of civil monetary penalties and to maintain their deterrent effect. The 2015 Act requires agencies to make an initial catch up adjustment to the civil monetary penalties they administer through an interim final rule and then to make subsequent annual adjustments for inflation. The amount of increase of any adjustment to a civil penalty pursuant to the 2015 Act is limited to

150 percent of the current penalty. Agencies are required to issue the interim final rule with the initial catch up adjustment by July 1, 2016.

The method of calculating inflationary adjustments in the 2015 Act differs substantially from the methods used in past inflationary adjustment rulemakings conducted pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 (the Inflation Adjustment Act), Pub. L. 101–410. Previously, adjustments to civil penalties were conducted under rules that required significant rounding of figures. For example, a penalty increase that was greater than \$1,000, but less than or equal to \$10,000, would be rounded to the nearest multiple of \$1,000. While this allowed penalties to be kept at round numbers, it meant that penalties would often not be increased at all if the inflation factor was not large enough. Furthermore, increases to penalties were capped at 10 percent. Over time, this formula caused penalties to lose value relative to total inflation.

The 2015 Act has removed these rounding rules; now, penalties are simply rounded to the nearest \$1. While this creates penalty values that are no longer round numbers, it does ensure that penalties will be increased each year to a figure commensurate with the actual calculated inflation. Furthermore, the 2015 Act “resets” the inflation calculations by excluding prior inflationary adjustments under the Inflation Adjustment Act, which contributed to a decline in the real value of penalty levels. To do this, the 2015 Act requires agencies to identify, for each penalty, the year and corresponding amount(s) for which the maximum penalty level or range of minimum and maximum penalties was established (*i.e.*, originally enacted by Congress) or last adjusted other than pursuant to the Inflation Adjustment Act.

The Director of the Office of Management and Budget (OMB) provided guidance to agencies in a February 24, 2016 memorandum on how to calculate the initial adjustment required by the 2015 Act.<sup>1</sup> The initial catch up adjustment is based on the change between the Consumer Price Index for all Urban Consumers (CPI-U) for the month of October in the year the penalty amount was established or last adjusted by Congress and the October

2015 CPI-U. The February 24, 2016 memorandum contains a table with a multiplier for the change in CPI-U from the year the penalty was established or last adjusted to 2015. To arrive at the adjusted penalty the agency must multiply the penalty amount when it was established or last adjusted by Congress, excluding adjustments under the Inflation Adjustment Act, by the multiplier for the increase in CPI-U from the year the penalty was established or adjusted provided in the February 24, 2016 memorandum. The 2015 Act limits the initial inflationary adjustment to 150 percent of the current penalty. To determine whether the increase in the adjusted penalty is less than 150 percent, the agency must multiply the current penalty by 250 percent. The adjusted penalty is the lesser of either the adjusted penalty based on the multiplier for CPI-U in Table A of the February 24, 2016 memorandum or an amount equal to 250% of the current penalty. This interim final rule adjusts the civil penalties for violations of statutes and regulations that NHTSA administers consistent with the February 24, 2016 memorandum.

## II. Inflationary Adjustments to Penalty Amounts in 49 CFR Part 578

### *Changes to Civil Penalties for School Bus Related Violations of the Safety Act (49 CFR 578.6(a)(2))*

The maximum civil penalty for a single violation of 30112(a)(1) of Title 49 of the United States Code involving school buses or school bus equipment, or of the prohibition on school system purchases and leases of 15 passenger vans as specified in 30112(a)(2) of Title 49 of the United States Code was set at \$10,000 when the penalty was established by the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Pub. L. 109–59, 119 Stat. 1942, enacted in 2005. Applying the multiplier for the increase in CPI-U for 2005 in Table A of the February 24, 2016 memorandum (1.19397) results in an adjusted civil penalty of \$11,940. The maximum civil penalty for a related series of violations of 30112(a)(1) and 30112(a)(2) was \$15,000,000 when the penalty was established by SAFETEA-LU in 2005. Applying the multiplier for the increase in CPI-U for 2005 results in an adjusted maximum civil penalty of \$17,909,550.

### *Changes to Civil Penalties for Filing False or Misleading Reports Under 49 U.S.C. 30165(a)(4)*

The Moving Ahead for Progress in the 21st Century Act (MAP-21) of 2012,

Pub. L. 112–141, established a maximum civil penalty for persons knowingly or willfully submitting materially false or misleading information to NHTSA after certifying that the information was accurate pursuant to 49 U.S.C. 30166(o) of \$5,000 per day. Applying the multiplier for the increase in CPI-U for 2012 in Table A of the February 24, 2016 memorandum (1.02819) results in an adjusted civil penalty of \$5,141. MAP-21 established a maximum civil penalty for a related series of daily violations of 49 U.S.C. 30166(o) of \$1,000,000. Applying the multiplier for the increase in CPI-U for 2012 results in an adjusted civil penalty of \$1,028,190 for a related series of daily violations of 49 U.S.C. 30166(o).

### *Change to Penalty for Violation of 49 U.S.C. Chapter 305 (49 CFR 578.6(b))*

The Anti Car Theft Act of 1992, Pub. L. 102–519, 204, 106 Stat. 3393 (1992) established a civil penalty of \$1,000 for each violation of the reporting requirements related to maintaining the Nation Motor Vehicle Title Information System. Applying the multiplier for the increase in CPI-U for 1992 in Table A of the February 24, 2016 memorandum (1.67728) results in an adjusted civil penalty of \$1,677.

### *Change to Maximum Penalty Under 49 U.S.C. 32506(a) (49 CFR 578.6(c))*

The Motor Vehicle Information and Cost Savings Act (Cost Savings Act), Pub. L. 92–513, 86 Stat. 953, (1972), established a civil penalty of \$1,000 for each violation of a bumper standard established pursuant to the Cost Savings Act. Applying the multiplier for the increase in CPI-U for 1972 in Table A of the February 24, 2016 memorandum (5.62265) results in an adjusted civil penalty of \$5,623. Since this would result in an increase to the current civil penalty of greater than 150 percent, the adjusted civil penalty is \$2,750 (Current penalty \$1,100 × 2.5).

The Cost Savings Act also established a maximum civil penalty of \$800,000 for a related series of violations of the bumper standards established pursuant to the Act. Applying the multiplier for the increase in CPI-U for 1972 in Table A of the February 24, 2016 memorandum (5.62265) results in an adjusted civil penalty of \$4,498,120. Since this would result in an increase to the current civil penalty of greater than 150 percent, the adjusted civil penalty is \$3,062,500 (Current penalty \$1,225,000 × 2.5).

<sup>1</sup> Memorandum from the Director of OMB to Heads of Executive Departments and Agencies, Implementation of the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Feb. 24, 2016), available at [www.whitehouse.gov/sites/default/files/omb/memoranda/2016/m-16-06.pdf](http://www.whitehouse.gov/sites/default/files/omb/memoranda/2016/m-16-06.pdf).

*Change to Penalties Under the Consumer Information Provisions (49 CFR 578.6(d)(1))*

The Cost Savings Act established a civil penalty of \$1,000 for each violation of 49 U.S.C. 32308(a) related to providing information on crashworthiness and damage susceptibility. Applying the multiplier for the increase in CPI-U for 1972 in Table A of the February 24, 2016 memorandum (5.62265) results in an adjusted civil penalty of \$5,623. Since this would result in an increase to the current civil penalty of greater than 150 percent, the adjusted civil penalty is \$2,750 (Current penalty \$1,100  $\times$  2.5). The Cost Savings established a maximum civil penalty of \$400,000 for a series of related violations of 49 U.S.C. 32308(a). Applying the multiplier for the increase in CPI-U for 1972 in Table A of the February 24, 2016 memorandum (5.62265) results in an adjusted civil penalty of \$2,249,060. Since this would result in an increase to the current civil penalty of greater than 150 percent, the adjusted civil penalty is \$1,500,000 (Current penalty \$600,000  $\times$  2.5).

*Change to Penalties Under the Tire Consumer Information Provisions (49 CFR 578.6(d)(2))*

The Energy Independence and Security Act of 2007, Pub. L. 110-140, 121 Stat. 1507 (2007) established a civil penalty of \$50,000 for each violation related to the tire information fuel efficiency information program under 49 U.S.C. 32304A. Applying the multiplier for the increase in CPI-U for 2007 in Table A of the February 24, 2016 memorandum (1.13833) results in an adjusted civil penalty of \$56,917.

*Change to Penalties Under the Country of Origin Content Labeling Provisions (49 CFR 578.6(d)(2))*

The American Automobile Labeling Act, Pub L. 102-388, § 210, 106 Stat. 1556 (1992), established a civil penalty of \$1,000 for willfully failing to affix, or failing to maintain, the label required by the Act. Applying the multiplier for the increase in CPI-U for 1992 in Table A of the February 24, 2016 memorandum (1.67728) results in an adjusted civil penalty of \$1,677.

*Change to Penalties Under the Odometer Tampering and Disclosure Provisions (49 CFR 578.6(f))*

MAP-21 adjusted the civil penalty for each violation of 49 U.S.C. Chapter 327 or a regulation issued thereunder related to odometer tampering and disclosure to \$10,000 per violation. Applying the multiplier for the increase in CPI-U for

2012 in Table A of the February 24, 2016 memorandum (1.02819) results in an adjusted civil penalty of \$10,282. MAP-21 established a maximum civil penalty of \$1,000,000 for a related series of violations of 49 U.S.C. Chapter 327 or a regulation issued thereunder. Applying the multiplier for the increase in CPI-U for 2012 results in an adjusted civil penalty of \$1,028,190 for a related series of violations.

MAP-21 also adjusted the civil penalty for violations of 49 U.S.C. Chapter 327 or a regulation issued thereunder with intent to defraud to \$10,000 per violation. Applying the multiplier for the increase in CPI-U for 2012 results in an adjusted civil penalty of \$10,282.

*Change to Penalties Under the Vehicle Theft Protection Provisions (49 CFR 578.6(g))*

The Motor Vehicle Theft Law Enforcement Act of 1984 (Vehicle Theft Act), Public Law 98-547, § 608, 98 Stat. 2762 (1984), established a civil penalty of \$1,000 for each violation of 49 U.S.C. 33114(a)(1)-(4). Applying the multiplier for the increase in CPI-U for 1984 in Table A of the February 24, 2016 memorandum (2.25867) results in an adjusted civil penalty of \$2,259. The Vehicle Theft Act also established a maximum penalty of \$250,000 for a related series of violations of 49 U.S.C. 33114(a)(1)-(4). Applying the multiplier for the increase in CPI-U for 1984 results in an adjusted civil penalty of \$564,668.

The Anti Car Theft Act of 1992 established a civil penalty of \$100,000 per day for violations of the Anti Car Theft Act related to operation of a chop shop. Applying the multiplier for the increase in CPI-U for 1992 in Table A of the February 24, 2016 memorandum (1.67728) results in an adjusted civil penalty of \$167,728.

*Change to Penalties Under the Automobile Fuel Economy Provisions (49 CFR 578.6(g))*

The Energy Policy and Conservation Act (EPCA) of 1975, Public Law 94-163, § 508, 89 Stat. 912 (1975), established a civil penalty of \$10,000 for each violation of 49 U.S.C. 32911(a). Applying the multiplier for the increase in CPI-U for 1975 in Table A of the February 24, 2016 memorandum (4.3322) results in an adjusted civil penalty of \$43,322. Since this would result in an increase to the current civil penalty of greater than 150 percent, the adjusted civil penalty is \$40,000 (Current penalty \$16,000  $\times$  2.5).

EPCA also established a civil penalty of \$5 multiplied by each .1 of a mile a

gallon by which the applicable average fuel economy standard under that section exceeds the average fuel economy for automobiles to which the standard applies manufactured by the manufacturer during the model year, multiplied by the number of those automobile and reduced by the credits available to the manufacturer. Applying the multiplier for the increase in CPI-U for 1975 results in an adjusted civil penalty of \$22. Since this would result in an increase to the current civil penalty of greater than 150 percent, the adjusted civil penalty is \$14 (Current penalty \$5.50  $\times$  2.5).

In 1978 Congress amended EPCA, Public Law 95-619, 402, 92 Stat. 3255 (Nov. 9, 1978) to allow the Secretary of Transportation to establish a new civil penalty for each .1 of a mile a gallon by which the applicable average fuel economy standard under EPCA exceeds the average fuel economy for automobiles to which the standard applies manufactured by the manufacturer during the model year. These amendments, which are codified in 49 U.S.C. 32912(c), state that the new civil penalty cannot be more than \$10. Applying the multiplier for the increase in CPI-U for 1978 in Table A of the February 24, 2016 memorandum (3.54453) to the \$10 maximum penalty the Secretary is permitted to establish under 49 U.S.C. 32912(c) results in an adjusted civil penalty of \$35. Since this would result in an increase of greater than 150 percent, the adjusted maximum civil penalty that the Secretary is permitted to establish under 49 U.S.C. 32912(c) is \$25 (Current maximum penalty \$10  $\times$  2.5). Because the new maximum penalty that the Secretary is permitted to establish under 49 U.S.C. 32912(c) is \$25, the new adjusted civil penalty in 49 CFR 578.6(h)(2) of \$14 does not exceed the maximum penalty that the Secretary is permitted to impose.

*Change to Penalties Under the Medium and Heavy Duty Vehicle Fuel Efficiency Program (49 CFR 578.6(i))*

In 2011, the agency established a maximum penalty of \$37,500 per vehicle or engine for violations of 49 CFR 535. Applying the multiplier for the increase in CPI-U for 2011 in Table A of the February 24, 2016 memorandum (1.05042) results in an adjusted civil penalty of \$39,391.

**III. Codification of Increases to NHTSA's Civil Penalty Authority in the FAST Act**

On December 4, 2015, the FAST Act, Public Law 114-94, was signed into law. Section 24110 of the FAST Act

increased the maximum civil penalty that NHTSA may collect for each violation of the Safety Act under 49 U.S.C. 30165(a)(1) and 49 U.S.C. 30165(a)(3) to \$21,000 per violation (previously \$7,000) and the maximum amount of civil penalties that NHTSA can collect for a related series of violations to \$105 million (previously \$35 million). In order for these increases to become effective, the Secretary of Transportation was required to certify to Congress that NHTSA has issued the final rule required by Section 31203 of MAP–21. Section 31203 required NHTSA to provide an interpretation of civil penalty factors in 49 U.S.C. 30165 for NHTSA to consider in determining the amount of penalty or compromise for violations of the Safety Act. Pub. L. 112–141, § 31203, 126 Stat. 758 (2012). The increases in maximum civil penalties in Section 24110 of the FAST Act became effective the date of the Secretary's certification.

NHTSA issued the final rule required by Section 31203 of MAP–21 on February 24, 2016. On March 17, 2016, the Secretary certified to Congress by letter to the Chairman and Ranking Member of the Senate Committee on Commerce, Science, and Transportation, and to the Chairman and Ranking Member of the House Committee on Energy and Commerce that NHTSA had issued the Final Rule. On March 22, 2016, the Office of the Secretary of Transportation published a notice in the **Federal Register** notifying the public that the increase was in effect.<sup>2</sup> NHTSA is codifying these increases in this interim final rule.

#### IV. Public Comment

NHTSA is promulgating this interim final rule to ensure that the amount of civil penalties contained in 49 CFR 578.6 reflect the statutorily mandated ranges as adjusted for inflation. Pursuant to the 2015 Act, NHTSA is required to promulgate a “catch-up adjustment” through an interim final rule. Pursuant to the 2015 Act and 5 U.S.C. 553(b)(3)(B), NHTSA finds that good cause exists for immediate implementation of this interim final rule without prior notice and comment because it would be impracticable to delay publication of this rule for notice and comment and because public comment is unnecessary. By operation of the Act, NHTSA must publish the catch-up adjustment by July 1, 2016. Additionally, the 2015 Act provides a clear formula for adjustment of the civil penalties, leaving the agency little room for discretion. Furthermore, the

increases in NHTSA's civil penalty authority authorized by the FAST Act are already in effect and the amendments merely update 49 CFR 578.6 to reflect the new statutory civil penalty. For these reasons, NHTSA finds that notice and comment would be impracticable and is unnecessary in this situation.

#### V. Rulemaking Analyses and Notices

##### *Executive Order 12866, Executive Order 13563, and DOT Regulatory Policies and Procedures*

NHTSA has considered the impact of this rulemaking action under Executive Order 12866, Executive Order 13563, and the Department of Transportation's regulatory policies and procedures. This rulemaking document was not reviewed under Executive Order 12866 or Executive Order 13563. This action is limited to the adoption of adjustments of civil penalties under statutes that the agency enforces, and has been determined to be not “significant” under the Department of Transportation's regulatory policies and procedures and the policies of the Office of Management and Budget. Because this rulemaking does not change the number of entities that are subject to civil penalties, the impacts are limited. Furthermore, excluding the penalties in 49 CFR 578.6(h)(2) for violations of Corporate Average Fuel Economy standards, this final rule does not establish civil penalty amounts that NHTSA is required to seek.

We also do not expect the increase in the civil penalty amount in 49 CFR 578.6(h)(2) to be economically significant. Over the last five model years, NHTSA has collected an average of \$20 million per model year in civil penalties under 49 CFR 578.6(h)(2). Therefore, increasing the current civil penalty amount by 150 percent would not result in an annual effect on the economy of \$100 million or more.

Furthermore, NHTSA contends that the economic effects of increasing the civil penalty in 49 CFR 578.6(h)(2) are not directly proportional to the increase in the amount of civil penalty. Manufacturers could pursue several strategies to avoid liability for civil penalties under 49 CFR 578.6(h)(2), including purchasing offset credits from other manufacturers, production and marketing changes to influence the average fuel economy of vehicles produced by the manufacturer, and vehicle design changes intended to increase the vehicle's fuel economy. NHTSA contends that manufacturers will pursue the strategy, or mix of strategies, that results in the lowest

overall cost to the manufacturer. For this reason the expected economic impacts of this rule can be expected to be lower than the amount of the increase to the civil penalty amount in 49 CFR 578.6(h)(2).

##### *Regulatory Flexibility Act*

We have also considered the impacts of this rule under the Regulatory Flexibility Act. I certify that this rule will not have a significant economic impact on a substantial number of small entities. The following provides the factual basis for this certification under 5 U.S.C. 605(b). The amendments almost entirely potentially affect manufacturers of motor vehicles and motor vehicle equipment.

The Small Business Administration's regulations define a small business in part as a business entity “which operates primarily within the United States.” 13 CFR 121.105(a). SBA's size standards were previously organized according to Standard Industrial Classification (“SIC”) Codes. SIC Code 336211 “Motor Vehicle Body Manufacturing” applied a small business size standard of 1,000 employees or fewer. SBA now uses size standards based on the North American Industry Classification System (“NAICS”), Subsector 336—Transportation Equipment Manufacturing, which provides a small business size standard of 1,000 employees or fewer for automobile manufacturing businesses. Other motor vehicle-related industries have lower size requirements that range between 500 and 750 employees.

For example, according to the SBA coding system, businesses that manufacture truck trailers, travel trailers/campers, carburetors, pistons, piston rings, valves, vehicular lighting equipment, motor vehicle seating/interior trim, and motor vehicle stamping qualify as small businesses if they employ 500 or fewer employees. Similarly, businesses that manufacture gasoline engines, engine parts, electrical and electronic equipment (non-vehicle lighting), motor vehicle steering/suspension components (excluding springs), motor vehicle brake systems, transmissions/power train parts, motor vehicle air-conditioning, and all other motor vehicle parts qualify as small businesses if they employ 750 or fewer employees. See <http://www.sba.gov/size/sizetable.pdf> for further details.

Many small businesses are subject to the penalty provisions of 49 U.S.C. Chapter 301 (Safety Act) and therefore may be affected by the adjustments made in this rulemaking. For example, based on comprehensive reporting

<sup>2</sup> 81 FR 15413.

pursuant to the early warning reporting (EWR) rule under the Safety Act, 49 CFR part 579, of the more than 60 light vehicle manufacturers reporting, over half are small businesses. Also, there are other, relatively low production vehicle manufacturers that are not subject to comprehensive EWR reporting. Furthermore, there are about 70 registered importers. Equipment manufacturers (including importers), entities selling motor vehicles and motor vehicle equipment, and motor vehicle repair businesses are also subject to penalties under 49 U.S.C. 30165.

As noted throughout this preamble, this rule will only increase the penalty amounts that the agency could obtain for violations covered by 49 CFR 578.6. Under the Safety Act, the penalty provision requires the agency to take into account the size of a business when determining the appropriate penalty in an individual case. See 49 U.S.C. 30165(b). The agency would also consider the size of a business under its civil penalty policy when determining the appropriate civil penalty amount. See 62 FR 37115 (July 10, 1997) (NHTSA's civil penalty policy under the Small Business Regulatory Enforcement Fairness Act ("SBREFA")). The penalty adjustments would not affect our civil penalty policy under SBREFA.

Since, this regulation does not establish a penalty amount that NHTSA is required to seek, except for civil penalties under 49 CFR 578.6(h)(2), this rule will not have a significant economic impact on small businesses. Furthermore, low volume manufacturers can petition for an exemption from the Corporate Average Fuel Economy standards under 49 CFR part 525. This will lessen the impacts of this rulemaking on small business by allowing them to avoid liability for penalties under 49 CFR 578.6(h)(2). Small organizations and governmental jurisdictions will not be significantly affected as the price of motor vehicles and equipment ought not change as the result of this rule.

#### *Executive Order 13132 (Federalism)*

Executive Order 13132 requires NHTSA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that 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." Under Executive Order 13132, the agency may not issue a regulation with Federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, the agency consults with State and local governments, or the agency consults with State and local officials early in the process of developing the proposed regulation.

This rule 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, as specified in Executive Order 13132. The reason is that this rule will generally apply to motor vehicle and motor vehicle equipment manufacturers (including importers), entities that sell motor vehicles and equipment and motor vehicle repair businesses. Thus, the requirements of Section 6 of the Executive Order do not apply.

#### *Unfunded Mandates Reform Act of 1995*

The Unfunded Mandates Reform Act of 1995, Public Law 104-4, requires agencies to prepare a written assessment of the cost, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of more than \$100 million annually. Because this rule will not have a \$100 million effect, no Unfunded Mandates assessment will be prepared.

#### *Executive Order 12778 (Civil Justice Reform)*

This rule does not have a retroactive or preemptive effect. Judicial review of this rule may be obtained pursuant to 5 U.S.C. 702. That section does not require that a petition for reconsideration be filed prior to seeking judicial review.

#### *Paperwork Reduction Act*

In accordance with the Paperwork Reduction Act of 1980, we state that there are no requirements for information collection associated with this rulemaking action.

#### *Privacy Act*

Please note that anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual

submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78), or you may visit <http://dms.dot.gov>.

#### **List of Subjects in 49 CFR Part 578**

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires, Penalties.

In consideration of the foregoing, 49 CFR part 578 is amended as set forth below.

#### **PART 578—CIVIL AND CRIMINAL PENALTIES**

■ 1. The authority citation for 49 CFR part 578 is revised to read as follows:

**Authority:** Pub. L. 101-410, Pub. L. 104-134, Pub. L. 109-59, Pub. L. 114-74, Pub. L. 114-94, 49 U.S.C. 30165, 30170, 30505, 32308, 32309, 32507, 32709, 32710, 32902, 32912, and 33115; delegation of authority at 49 CFR 1.81, 1.95.

■ 2. Section 578.6 is revised to read as follows:

#### **§ 578.6 Civil penalties for violations of specified provisions of Title 49 of the United States Code.**

(a) *Motor vehicle safety*—(1) *In general.* A person who violates any of sections 30112, 30115, 30117 through 30122, 30123(a), 30125(c), 30127, or 30141 through 30147 of Title 49 of the United States Code or a regulation prescribed under any of those sections is liable to the United States Government for a civil penalty of not more than \$21,000 for each violation. A separate violation occurs for each motor vehicle or item of motor vehicle equipment and for each failure or refusal to allow or perform an act required by any of those sections. The maximum civil penalty under this paragraph for a related series of violations is \$105,000,000.

(2) *School buses.* Notwithstanding paragraph (a)(1) of this section, a person who:

(i) Violates section 30112(a)(1) of Title 49 United States Code by the manufacture, sale, offer for sale, introduction or delivery for introduction into interstate commerce, or importation of a school bus or school bus equipment (as those terms are defined in 49 U.S.C. 30125(a)); or

(ii) Violates section 30112(a)(2) of Title 49 United States Code, shall be subject to a civil penalty of not more than \$11,940 for each violation. A separate violation occurs for each motor vehicle or item of motor vehicle

equipment and for each failure or refusal to allow or perform an act required by this section. The maximum penalty under this paragraph for a related series of violations is \$17,909,550.

(3) *Section 30166.* A person who violates section 30166 of Title 49 of the United States Code or a regulation prescribed under that section is liable to the United States Government for a civil penalty for failing or refusing to allow or perform an act required under that section or regulation. The maximum penalty under this paragraph is \$21,000 per violation per day. The maximum penalty under this paragraph for a related series of daily violations is \$105,000,000.

(4) *False and misleading reports.* A person who knowingly and willfully submits materially false or misleading information to the Secretary, after certifying the same information as accurate under the certification process established pursuant to section 30166(o), shall be subject to a civil penalty of not more than \$5,141 per day. The maximum penalty under this paragraph for a related series of daily violations is \$1,028,190.

(b) *National Automobile Title Information System.* An individual or entity violating 49 U.S.C. Chapter 305 is liable to the United States Government for a civil penalty of not more than \$1,677 for each violation.

(c) *Bumper standards.* (1) A person that violates 49 U.S.C. 32506(a) is liable to the United States Government for a civil penalty of not more than \$2,750 for each violation. A separate violation occurs for each passenger motor vehicle or item of passenger motor vehicle equipment involved in a violation of 49 U.S.C. 32506(a)(1) or (4)—

(i) That does not comply with a standard prescribed under 49 U.S.C. 32502, or

(ii) For which a certificate is not provided, or for which a false or misleading certificate is provided, under 49 U.S.C. 32504.

(2) The maximum civil penalty under this paragraph (c) for a related series of violations is \$3,062,500.

(d) *Consumer information—(1) Crashworthiness and damage susceptibility.* A

person who violates 49 U.S.C. 32308(a), regarding crashworthiness and damage susceptibility, is liable to the United States Government for a civil penalty of not more than \$2,750 for each violation. Each failure to provide information or comply with a regulation in violation of 49 U.S.C. 32308(a) is a separate violation. The maximum penalty under this paragraph for a related series of violations is \$1,500,000.

(2) *Consumer tire information.* Any person who fails to comply with the national tire fuel efficiency program under 49 U.S.C. 32304A is liable to the United States Government for a civil penalty of not more than \$56,917 for each violation.

(e) *Country of origin content labeling.* A manufacturer of a passenger motor vehicle distributed in commerce for sale in the United States that willfully fails to attach the label required under 49 U.S.C. 32304 to a new passenger motor vehicle that the manufacturer manufactures or imports, or a dealer that fails to maintain that label as required under 49 U.S.C. 32304, is liable to the United States Government for a civil penalty of not more than \$1,677 for each violation. Each failure to attach or maintain that label for each vehicle is a separate violation.

(f) *Odometer tampering and disclosure.* (1) A person that violates 49 U.S.C. Chapter 327 or a regulation prescribed or order issued thereunder is liable to the United States Government for a civil penalty of not more than \$10,281 for each violation. A separate violation occurs for each motor vehicle or device involved in the violation. The maximum civil penalty under this paragraph for a related series of violations is \$1,028,190.

(2) A person that violates 49 U.S.C. Chapter 327 or a regulation prescribed or order issued thereunder, with intent to defraud, is liable for three times the actual damages or \$10,281, whichever is greater.

(g) *Vehicle theft protection.* (1) A person that violates 49 U.S.C. 33114(a)(1)-(4) is liable to the United States Government for a civil penalty of not more than \$2,259 for each violation. The failure of more than one part of a

single motor vehicle to conform to an applicable standard under 49 U.S.C. 33102 or 33103 is only a single violation. The maximum penalty under this paragraph for a related series of violations is \$564,668.

(2) A person that violates 49 U.S.C. 33114(a)(5) is liable to the United States Government for a civil penalty of not more than \$167,728 a day for each violation.

(h) *Automobile fuel economy.* (1) A person that violates 49 U.S.C. 32911(a) is liable to the United States Government for a civil penalty of not more than \$40,000 for each violation. A separate violation occurs for each day the violation continues.

(2) Except as provided in 49 U.S.C. 32912(c), a manufacturer that violates a standard prescribed for a model year under 49 U.S.C. 32902 is liable to the United States Government for a civil penalty of \$14 multiplied by each .1 of a mile a gallon by which the applicable average fuel economy standard under that section exceeds the average fuel economy—

(i) Calculated under 49 U.S.C. 32904(a)(1)(A) or (B) for automobiles to which the standard applies manufactured by the manufacturer during the model year;

(ii) Multiplied by the number of those automobiles; and

(iii) Reduced by the credits available to the manufacturer under 49 U.S.C. 32903 for the model year.

(i) *Medium- and heavy-duty vehicle fuel efficiency.* The maximum civil penalty for a violation of the fuel consumption standards of 49 CFR part 535 is not more than \$39,391 per vehicle or engine. The maximum civil penalty for a related series of violations shall be determined by multiplying \$39,391 times the vehicle or engine production volume for the model year in question within the regulatory averaging set.

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**Mark R. Rosekind,**  
Administrator.

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