



NATIONAL TRANSPORTATION SAFETY BOARD

49 CFR Part 831

[Docket No.: NTSB-2023-0001]

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 2023 adjustment to the civil penalties that the agency may assess for violations of certain NTSB statutes and regulations.

DATES: This final rule is effective on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: A copy of this final rule, published in the **Federal Register** (FR), is available at <https://www.regulations.gov> (Docket ID Number NTSB-2023-0001).

FOR FURTHER INFORMATION CONTACT: Kathleen Silbaugh, General Counsel, (202) 314-6080 or 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) 2022, allowing the agency to impose a civil penalty up to \$1,850, effective January 14, 2022 for violations involving 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, 87 FR 2352 (Jan. 14, 2022).

OMB has since published updated guidance for FY 2023. OMB, M-23-05, *Implementation of Penalty Inflation Adjustments for 2023, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015* (Dec. 15, 2022).

Accordingly, this final rule reflects the NTSB's 2023 annual inflation adjustment and updates the maximum civil penalty from \$1,850 to \$1,993.

II. The 2023 Annual Adjustment

The 2023 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-23-05, *Implementation of Penalty Inflation Adjustments for 2023, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015* (Dec. 15, 2022). For FY 2023, OMB's guidance states that the cost-of-living adjustment multiplier is 1.07745.

Accordingly, multiplying the current penalty of \$1,850 by 1.07745 equals \$1,993.2825, which rounded to the nearest dollar equals \$1,993. 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, 2024.

III. Regulatory Analysis

The Office of Information and Regulatory Affairs has determined that 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-23-05, *Implementation of Penalty Inflation Adjustments for 2023, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015* (Dec. 15, 2022). 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 Pub. L. 101-410, 104 Stat. 890, amended by Pub. L. 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 “\$1,850” and add in its place “\$1,993”.

Jennifer Homendy,

Chair.

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