

Rules and Regulations

Federal Register

Vol. 67, No. 220

Thursday, November 14, 2002

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.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

FARM CREDIT ADMINISTRATION

12 CFR Part 622

RIN 3052-AC12

Rules of Practice and Procedure; Adjusting Civil Money Penalties for Inflation

AGENCY: Farm Credit Administration (FCA).

ACTION: Final rule.

SUMMARY: This regulation revises cost-of-living adjustments for all civil money penalties (CMPs) under the Farm Credit Administration's (FCA) jurisdiction. The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended (FCPIA Act) requires us to adjust our CMPs at least once every 4 years for inflation. Our last adjustments, effective in October 2000, incorporated a rounding method based on the amount of the penalty increase. We have recently been advised by the General Accounting Office (GAO) that the adjustment should have been based on the amount of the penalty. Therefore, we have recalculated the penalties and have revised the penalty amounts.

EFFECTIVE DATE: The regulation will become effective on November 15, 2002.

FOR FURTHER INFORMATION CONTACT:

Mark L. Johansen, Policy Analyst, Office of Policy and Analysis, Farm Credit Administration, McLean, VA 22102-5090, (703) 883-4498, TTY (703) 883-4434,

or

Rebecca S. Orlich, Senior Attorney, Office of General Counsel, Farm Credit Administration, McLean, VA 22102-5090, (703) 883-4020, TTY (703) 883-2020.

SUPPLEMENTARY INFORMATION:

I. Objective

The objective of this regulation is to recalculate the CMP inflation

adjustments consistent with the FCPIA Act.

II. Cost-of-Living Adjustment

The FCPIA Act,¹ as amended by the Debt Collection Improvement Act of 1996 (DCIA),² requires each agency to adjust each CMP within its jurisdiction by a prescribed cost-of-living adjustment at least once every 4 years. This cost-of-living adjustment is based on the formula described in section 5(b) of the FCPIA Act. We made our last adjustment in July 2000, effective in October of that year, when we increased the penalties from \$1,100 to \$1,170 per day for violation of an order that has become final, and from \$550 to \$580 per day for violation of the Farm Credit Act of 1971, as amended, or FCA regulations. See 65 FR 46087 (July 27, 2000) for a full explanation of the types of violations subject to CMPs.

Earlier this year, the GAO began a government-wide review of agencies' application of the FCPIA Act. The GAO found that several agencies, including the FCA, took actions that did not conform to the strict language of the FCPIA Act and requested that each agency adjust its penalties accordingly. In a letter to the FCA, the GAO stated that they "recognize some advantages to rounding on the basis of the size of the increase rather than the size of the penalty," but requested FCA "to adjust the agency's civil penalties in a manner consistent with the requirements of the [FCPIA Act]." See GAO-02-1084R FCA Penalty Adjustments.

The FCPIA Act contains a formula for rounding CMP increases, setting out penalty ranges on amounts from less than or equal to \$100, to amounts greater than \$200,000, and provides different dollar multiples for rounding the increase in each penalty range. Section 5(a) of the FCPIA Act provides that increases determined under that subsection must be rounded to:

- The nearest "multiple of \$10 in the case of penalties less than or equal to \$100";
- The nearest "multiple of \$100 in the case of penalties greater than \$100 but less than or equal to \$1,000"; and
- The nearest "multiple of \$1,000 in the case of penalties greater than \$1,000 but less than or equal to \$10,000."

¹ 28 U.S.C. 2461 note.

² Pub. L. 104-134, sec. 31001(s), 110 Stat. 1321-373 (April 26, 1996).

Emphasis added. In our 2000 regulation, we applied the rounding method to the amount of the *increase* in the penalty, rather than to the amount of the penalty itself.

We based our 2000 CMP adjustments on the difference between the Consumer Price Index (CPI) for June of the preceding year of the adjustment (June 1999) and the CPI for June of the year the CMP was last set (June 1996).³ For the 2000 adjustment, the CPI value was 156.7 for June 1996 and was 166.2 for June 1999, resulting in an inflation factor of 1.06 (i.e., a 6-percent increase). The prrounding adjustments were a \$66.69 increase for the \$1,100 penalty and a \$33.34 increase for the \$550 penalty.

Using the FCPIA Act's correct rounding formula, the \$66.69 increase should have been rounded to the nearest \$1,000, which is zero, because the penalty in question is in the \$1,000-9,999 category. That rounding results in no adjustment to the \$1,100 penalty. The \$33.34 increase should have been rounded to the nearest \$100, which is also zero, because the penalty in question is in the \$100-999 category. That rounding results in no adjustment to the \$550 penalty.

We now amend § 622.61 to provide for CMPs of \$1,100 and \$550. We note that the agency has not imposed any CMPs in the last 2 years; consequently, no person has been required to pay the higher penalty amounts we adopted in 2000.

III. Notice and Comment Not Required by Administrative Procedure Act

The FCPIA Act gives Federal agencies no discretion in the adjustment of CMPs for the rate of inflation. Moreover, this regulation is ministerial, technical, and noncontroversial. For these reasons, the FCA finds good cause to determine that public notice and an opportunity to comment are impracticable, unnecessary, and contrary to the public interest pursuant to the Administrative Procedure Act, 5 U.S.C. 553(b)(B), and adopts this rule in final form. In addition, because this rule will relieve a burden by reducing the CMPs to the

³ We used the Department of Labor, Bureau of Labor Statistics—All Urban Consumers tables, in which the period 1982-84 was equal to 100, to get the CPI numbers. We note that the 1996 adjustment was based on the June 1995 CPI. In calculating the new adjustments, the FCPIA Act requires us to use the 3-year period from June 1996 to June 1999.

correct amounts, the FCA has determined that it should become effective immediately.

IV. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the FCA hereby certifies that the final rule will not have a significant economic impact on a substantial number of small entities. Each of the banks in the Farm Credit System, considered together with its affiliated associations, has assets and annual income in excess of the amounts that would qualify them as small entities. Therefore, Farm Credit System institutions are not “small entities” as defined in the Regulatory Flexibility Act.

List of Subjects in 12 CFR Part 622

Administrative practice and procedures, Crime, Investigations, Penalties.

For the reasons stated in the preamble, part 622 of chapter VI, title 12 of the Code of Federal Regulations is amended to read as follows:

PART 622—RULES OF PRACTICE AND PROCEDURE

1. The authority citation for part 622 continues to read as follows:

Authority: Secs. 5.9, 5.10, 5.17, 5.25–5.37 of the Farm Credit Act (12 U.S.C. 2243, 2244, 2252, 2261–2273); 28 U.S.C. 2461 note.

Subpart B—Rules and Procedures for Assessment and Collection of Civil Money Penalties

2. Revise § 622.61 to read as follows:

§ 622.61 Adjustment of civil money penalties by the rate of inflation under the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended.

The maximum amount of each civil money penalty within FCA’s jurisdiction is adjusted in accordance with the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended (28 U.S.C. 2461 note), as follows:

- (a) Amount of civil money penalty imposed under section 5.32 of the Act for violation of a final order issued under section 5.25 or 5.26 of the Act: the maximum daily amount is \$1,100.
- (b) Amount of civil money penalty for violation of the Act or regulations:

If the violation occurred—	The maximum daily amount is—
Before October 23, 1996	\$500
On or after October 23, 1996 ..	\$550

Dated: November 7, 2002.
Jeanette C. Brinkley,
Acting Secretary, Farm Credit Administration Board.
[FR Doc. 02–28881 Filed 11–13–02; 8:45 am]
BILLING CODE 6705–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NE–31–AD; Amendment 39–12950; AD 2002–23–06]

RIN 2120–AA64

Airworthiness Directives; Textron Lycoming AEIO–540, IO–540, LTIO–540, O–540, and TIO–540 Series Reciprocating Engines

AGENCY: Federal Aviation Administration, DOT.
ACTION: Final rule, request for comments.

SUMMARY: This amendment supersedes an emergency airworthiness directive (AD) that was sent previously to all known U.S. owners and operators of Textron Lycoming (T/L) AEIO–540, IO–540, LTIO–540, O–540, and TIO–540 series reciprocating engines. That action requires replacing certain zinc-plated crankshaft gear retaining bolts. This action still requires replacing certain zinc-plated crankshaft gear retaining bolts, but expands the population of affected engines. This amendment is prompted by two recent failures of zinc-plated crankshaft gear retaining bolts, and a reassessment of the extent to which the suspect bolts may still be present in the field. The actions specified by this AD are intended to prevent loss of all engine power and possible forced landing.

DATES: Effective November 19, 2002. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 19, 2002.

Comments for inclusion in the Rules Docket must be received on or before January 13, 2003.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2002–NE–31–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may be inspected at this location, by appointment, between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Comments may also

be sent via the Internet using the following address: “9-ane-adcomment@faa.gov”. Comments sent via the Internet must contain the docket number in the subject line.

The applicable service information may be obtained from Lycoming, a Textron Company, 652 Oliver Street, Williamsport, PA 10071; telephone (570) 323–6181. This information may also be obtained electronically on “http://www.lycoming.textron.com”. This information may be examined, by appointment, at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Norm Perenson, Aerospace Engineer, New York Aircraft Certification Office, FAA, Engine and Propeller Directorate, 10 Fifth Street, 3rd floor, Valley Stream, NY 11581–1200; telephone (516) 256–7537; fax (516) 568–2716.

SUPPLEMENTARY INFORMATION: On October 1, 2002, the Federal Aviation Administration (FAA) issued emergency airworthiness directive (AD) 2002–20–51 that applies to Textron Lycoming AEIO–540, IO–540, LTIO–540, O–540, and TIO–540 series reciprocating engines. AD 2002–20–51 requires replacing zinc-plated crankshaft gear retaining bolts, part number (P/N) STD–2209, with new cadmium-plated bolts P/N STD–2209. That action was prompted by two recent failures of zinc-plated crankshaft gear retaining bolts with one failure resulting in two fatalities. Since 1999, when the FAA issued AD 99–03–05 that requires the removal of zinc-plated bolts from O–540–F series engines installed on Robinson R44 helicopters, five failures have occurred on fixed-wing airplanes. That condition, if not corrected, could result in loss of all engine power and possible forced landing.

Since that AD was issued, the manufacturer has introduced gear bolt replacement kit, 05K19987, for use in replacing suspect bolts, and has determined that some of the bolts that were recalled on November 10, 1998, were not returned to T/L and may have been installed into engines after November 10, 1998. Based on that determination, the manufacturer has issued Lycoming Service Bulletin (SB) No. 554, Supplement 3, to increase the time period during which these bolts might have been installed in affected engines and to have maintenance facilities return to T/L, all crankshaft gear retaining bolts, part number STD–2209, except those that are included as