of NRC requirements (*i.e.,* nonenforcement-related Orders.)

b. Page 9: The NRC reviews each case being considered for enforcement action on its own merits to ensure that the severity of a violation is characterized at the level appropriate to the safety or security significance of the particular violation.

Whenever possible, the NRC uses risk information in assessing the safety or security significance of violations and assigning severity levels. A higher severity level may be warranted for violations that have greater risk, safety, or security significance, while a lower severity level may be appropriate for issues that have lower risk, safety, or security significance.

c. Page 15: a. Licensees and Nonlicensees with a credited Corrective Action Program

d. Page 19: The flow chart (Figure 2) is a graphic representation of the civil penalty assessment process and should be used in conjunction with the narrative in this section.

e. Page 33: The NRC may refrain from issuing an NOV for a SL II, III, or IV violation that meets the above criteria, provided that the violation was caused by conduct that is not reasonably linked to the licensee's present performance (normally, violations that are at least 3 years old or violations occurring during plant construction) and that there had not been prior notice so that the licensee could not have reasonably identified the violation earlier.

f. Page 34: In addition, the NRC may refrain from issuing enforcement action for violations resulting from matters not within a licensee's control, such as equipment failures that were not avoidable by reasonable licensee QA measures or management controls (*e.g.,* reactor coolant system leakage that was not within the licensee's ability to detect during operation, but was identified at the first available opportunity or outage).

g. Page 43: 6.1.c.2 A system that is part of the primary success path and which functions or actuates to mitigate a DBA or transient that either assumes the failure of or presents a challenge to the integrity of the fission product barrier not being able to perform its licensing basis safety function because it is not fully qualified (per the IMC 0326, ''Operability Determinations & Functional Assessment for Conditions Adverse to Quality or Safety'') (*e.g.,* materials or components not environmentally qualified);

h. Page 43: 6.1.d.3 A licensee fails to update the FSAR as required by 10 CFR 50.71(e) and the lack of up-to-date information has a material impact on safety or licensed activities; or

i. Page 59: 6.7.d.3 ''A radiation dose rate in an unrestricted or controlled area exceeds 0.002 rem (0.02 millisieverts) in any 1 hour (2 mrem/hour) or 50 mrem (0.5 mSv) in a year;''

III. Procedural Requirements

Paperwork Reduction Act Statement

This policy statement does not contain new or amended information collection requirements subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Existing requirements were approved by the Office of Management and Budget (OMB), approval number 3150–0136.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a request for information or an information collection requirement unless the requesting document displays a currently valid OMB control number.

Congressional Review Act

This policy is a rule as defined in the Congressional Review Act (5 U.S.C 801–808). However, the Office of Management and Budget has not found it to be a major rule as defined in the Congressional Review Act.

Dated at Rockville, Maryland, this 1st day of November, 2016.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. 2016–26762 Filed 11–4–16; 8:45 am]

BILLING CODE 7590–01–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 747

RIN 3133–AE59

Civil Monetary Penalty Inflation Adjustment

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: On June 21, 2016, the NCUA Board (Board) published an interim final rule amending its regulations to adjust the maximum amount of each civil monetary penalty (CMP) within its jurisdiction to account for inflation. This action, including the amount of the adjustments, is required under the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996 and the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015. This final rule confirms those amendments while making a clarification regarding the prospective effect of the 2015 legislation.

DATES: Effective date: November 7, 2016.

FOR FURTHER INFORMATION CONTACT: Ian Marenna, Senior Trial Attorney, at 1775 Duke Street, Alexandria, VA 22314, or telephone: (703) 518–6540.

SUPPLEMENTARY INFORMATION:

I. Background

A. June 2016 Interim Final Rule

The Debt Collection Improvement Act of 1996 [1] (DCIA) amended the Federal Civil Penalties Inflation Adjustment Act of 1990 [2] (FCPIA Act) to require every federal agency to enact regulations that adjust each CMP provided by law under its jurisdiction by the rate of inflation at least once every four years. In November 2015, Congress further amended the CMP inflation requirements in the Bipartisan Budget Act of 2015,[3] which contains the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (the 2015 amendments).[4] This legislation provides for an initial ''catch-up'' adjustment of CMPs in 2016, followed by annual adjustments. The catch-up adjustment re-sets CMP maximum amounts by setting aside the inflation adjustments that agencies made in prior years and instead calculating inflation with reference to the year when each CMP was enacted or last modified by Congress. For 2017 and subsequent years, the Board will be required to adjust maximum levels to account for annual inflation.[5]

On June 21, 2016, in compliance with the 2015 amendments, the Board published an interim final rule with a request for comments in the **Federal Register**.[6] In calculating the adjustments, the Board reviewed and applied government-wide guidance issued by the Office of Management and Budget (OMB).[7] In accordance with the

[1] Public Law 104–134, sec. 31001(s), 110 Stat. 1321–373 (Apr. 26, 1996). The law is codified at 28 U.S.C. 2461 note.

[2] Public Law 101–410, 104 Stat. 890 (Oct. 5, 1990), also codified at 28 U.S.C. 2461 note.

[3] Public Law 114–74, 129 Stat. 584 (Nov. 2, 2015).

[4] 129 Stat. 599.

[5] Public Law 114–74, 129 Stat. 584 (Nov. 2, 2015).

[6] 81 FR 40152 (June 21, 2016).

[7] Office of Mgmt. & Budget, Exec. Office of the President, OMB Memorandum No. M–16–06, Implementation of the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (2016).

procedures and calculations prescribed by the 2015 amendments and OMB's guidance, the Board adjusted the maximum level of each of the CMPs that NCUA has authority to assess. NCUA is not, however, required to assess at the new maximum levels and retains discretion to assess at lower levels, as it has done historically.[8]

The interim final rule became effective on July 21, 2016. The Board received no comments on the rule.

B. Prospective Effect of Adjustments

Although the Board received no comments on the interim final rule, it wishes to clarify its intended use of adjusted maximums for violations that occurred prior to the adjustment. As described in the interim final rule, the 2015 amendments provide that increased maximum CMP amounts apply to penalties assessed after the adjustments take effect, including those for which the associated violation occurred before the adjustment became effective.[9] The Board adopted this provision in the interim final rule consistent with the statute.[10]

The Board has observed that agencies have appeared to vary in their adoption of this provision. Some agencies' interim final rules provide that the adjusted maximums apply only to violations occurring after November 2, 2015, when the 2015 amendments became law.[11] Other agencies' rules, like the NCUA's interim final rule, do not specify whether the adjusted maximums would apply to violations that occurred before the 2015 amendments were enacted.[12] To avoid confusion, the Board clarifies that it interprets the 2015 amendments as applying only prospectively. If NCUA assesses CMPs at the maximum level, it would not apply the new maximums to violations that occurred before the statute was amended on November 2, 2015. As noted above, nothing in the 2015 amendments or the final rule requires application of maximum-level CMPs. Further, as explained in the interim final rule, NCUA generally must consider mitigating factors, including financial resources, in assessing a CMP.[13]

Apart from this clarification, the Board adopts the interim final rule as final without changes.

II. Regulatory Procedures

Section III of the Supplementary Information in the June 2016 interim final rule sets forth the Board's analyses under the Administrative Procedure Act, the Regulatory Flexibility Act, the Paperwork Reduction Act of 1995, the Small Business Enforcement Fairness Act, Executive Order 13132, and the Treasury and General Government Appropriations Act. *See* 81 FR 40156–40157. Because the final rule confirms the interim final rule and does not alter the substance of the analyses and determinations accompanying the interim final rule, the Board continues to rely on those analyses and determinations for purposes of this rulemaking. The Board notes that OMB determined that the interim final rule is not a ''major rule'' within the meaning of the Small Business Enforcement Fairness Act.

List of Subjects in 12 CFR Part 747

Credit unions, Civil monetary penalties.

By the National Credit Union Administration Board on October 27, 2016.

Gerard S. Poliquin,

Secretary of the Board.

For the reasons stated above, the interim final rule amending 12 CFR part 747, published at 81 FR 40152 (June 21, 2016), is adopted as a final rule without change.

[FR Doc. 2016–26712 Filed 11–4–16; 8:45 am]

BILLING CODE 7535–01–P

[8] 81 FR 40152, 40156 (June 21, 2016).

[9] Public Law 114–74, 129 Stat. 600 (Nov. 2, 2015), codified at 28 U.S.C. 2461 note.

[10] 81 FR 40152, 40156 (June 21, 2016).

[11] See, *e.g.,* Dep't of Justice, Civil Monetary Penalties Inflation Adjustment, 81 FR 42491, 42499 June 30, 2106).

[12] See, *e.g.,* Dep't of Defense, Civil Monetary Penalty Inflation Adjustment, 81 FR 33389, 33390 (May 26, 2016).

[13] 81 FR 40152, 40156 (June 21, 2016).

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Docket No. FAA–2015–2776; Airspace Docket No. 15–AEA–5]

RIN 2120–AA66

Amendment and Establishment of Restricted Areas; Chincoteague Inlet, VA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action expands the restricted airspace at Chincoteague Inlet, VA, to support the National Aeronautics and Space Administration's (NASA) Wallops Island Flight Facility (WFF) test requirements. This action adds 3 new restricted areas, designated R–6604C, R–6604D, and R–6604E. Additionally, a minor change is made to 2 points in the boundary of existing area R–6604A to match the updated 3-nautical mile (NM) line from the shoreline of the United States (U.S.) as provided by the National Oceanic and Atmospheric Administration (NOAA).

DATES: Effective date 0901 UTC, January 5, 2017.

FOR FURTHER INFORMATION CONTACT: Paul Gallant, Airspace Policy Group, Office of Airspace Services, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it restructures the restricted airspace at Chincoteague Inlet, VA to enhance aviation safety and accommodate essential NASA testing programs.

History

On September 10, 2015, the FAA published in the **Federal Register** a notice proposing to expand the restricted airspace at Chincoteague Inlet, VA, to support NASA's WFF test requirements (80 FR 54444), Docket No. FAA–2015–2776. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. Due to an error, a chart depicting the proposed areas was not posted to the regulations.gov Web site for public viewing until November 5, 2015 (10 days after the close of the comment period). Consequently, on January 21, 2016, the FAA published a notice reopening the comment period for 30 additional days (81 FR 3353), Docket No. FAA–2015–2776, to provide the public the opportunity to view the chart and submit comments.

Discussion of Comments

A total of 17 comments were received, including 2 duplicate submissions.