

# Rules and Regulations

Federal Register

Vol. 81, No. 34

Monday, February 22, 2016

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.

## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR Part 532

RIN 3206-AN20

#### Prevailing Rate Systems; Definition of Hancock County, Mississippi, to a Nonappropriated Fund Federal Wage System Wage Area

**AGENCY:** U.S. Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** The U.S. Office of Personnel Management (OPM) is issuing a final rule to define Hancock County, Mississippi, as an area of application county to the Harrison, MS, nonappropriated fund (NAF) Federal Wage System (FWS) wage area. This change is necessary because there are four NAF FWS employees working in Hancock County, and the county is not currently defined to a NAF wage area.

**DATES:**

*Effective date:* This regulation is effective on February 22, 2016.

*Applicability date:* This change applies on the first day of the first applicable pay period beginning on or after March 23, 2016.

**FOR FURTHER INFORMATION CONTACT:** Madeline Gonzalez, by telephone at (202) 606-2858 or by email at *pay-leave-policy@opm.gov*.

**SUPPLEMENTARY INFORMATION:** On August 27, 2015, OPM issued a proposed rule (80 FR 51963) to define Hancock County, MS, as an area of application county to the Harrison, MS, NAF FWS wage area.

FPRAC, the national labor-management committee responsible for advising OPM on matters concerning the pay of FWS employees, reviewed and recommended this change by consensus.

The proposed rule had a 30-day comment period, during which OPM received no comments.

### Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they will affect only Federal agencies and employees.

### List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

U.S. Office of Personnel Management.

**Beth F. Cobert,**  
*Acting Director.*

Accordingly, the U.S. Office of Personnel Management is amending 5 CFR part 532 as follows:

### PART 532—PREVAILING RATE SYSTEMS

■ 1. The authority citation for part 532 continues to read as follows:

**Authority:** 5 U.S.C. 5343, 5346; § 532.707 also issued under 5 U.S.C. 552.

■ 2. Appendix D to subpart B is amended by revising the wage area listing for the Harrison, Mississippi, NAF wage areas to read as follows:

#### Appendix D to Subpart B of Part 532—Nonappropriated Fund Wage and Survey Areas

*	*	*	*	*
<b>MISSISSIPPI</b>				
*	*	*	*	*
<b>Harrison</b>				
<i>Survey Area</i>				
Mississippi:				
Harrison				
<i>Area of Application. Survey area plus:</i>				
Alabama:				
Mobile				
Mississippi:				
Forrest				
Hancock				
Jackson				
*	*	*	*	*

[FR Doc. 2016-03588 Filed 2-19-16; 8:45 am]

**BILLING CODE 6325-39-P**

## FEDERAL HOUSING FINANCE AGENCY

### 12 CFR Parts 1209 and 1250

RIN 2590-AA77

#### Rules of Practice and Procedure; Civil Money Penalty Inflation Adjustment

**AGENCY:** Federal Housing Finance Agency.

**ACTION:** Final rule.

**SUMMARY:** The Federal Housing Finance Agency (FHFA) is issuing this final rule amending its rules of practice and procedure to adjust each civil money penalty within its jurisdiction to account for inflation, pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996.

**DATES:** Effective February 22, 2016.

**FOR FURTHER INFORMATION CONTACT:**

Stephen E. Hart, Deputy General Counsel, at (202) 649-3053, *Stephen.Hart@fhfa.gov*, or Frank R. Wright, Senior Counsel, at (202) 649-3087, *Frank.Wright@fhfa.gov* (not toll-free numbers); Federal Housing Finance Agency, 400 7th Street SW., Washington, DC 20219. The telephone number for the Telecommunications Device for the Hearing Impaired is: (800) 877-8339 (TDD only).

**SUPPLEMENTARY INFORMATION:**

#### I. Background

The FHFA is an independent agency of the Federal government, and the financial safety and soundness regulator of the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac) (collectively, the Enterprises), as well as the Federal Home Loan Banks (collectively, the Banks) and the Office of Finance under authority granted by the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (Safety and Soundness Act).<sup>1</sup> FHFA oversees the Enterprises and Banks (collectively, the regulated entities) to ensure that they operate in a safe and sound manner and

<sup>1</sup> See Federal Housing Enterprises Financial Safety and Soundness Act of 1992, Public Law 102-550, 106 Stat. 4078 (Oct. 28, 1992) as amended by the Federal Housing Finance Regulatory Reform Act of 2008, Public Law 110-289, 122 Stat. 2654, sections 1101 *et seq.* (July 30, 2008).

maintain liquidity in the housing finance market in accordance with applicable laws, rules and regulations. To that end, FHFA is vested with broad supervisory discretion and specific civil administrative enforcement powers, similar to such authority granted by Congress to the Federal bank regulatory agencies.<sup>2</sup> In particular, section 1376 of the Act (12 U.S.C. 4636) empowers FHFA to impose civil money penalties under specific conditions. FHFA's Rules of Practice and Procedure (12 CFR part 1209) govern cease and desist proceedings, civil money penalty assessment proceedings, and other administrative adjudications.<sup>3</sup> FHFA's Flood Insurance regulation (12 CFR part 1250) governs flood insurance responsibilities as they pertain to the Enterprises.<sup>4</sup>

*The Inflation Adjustment Act*

The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996 (the Inflation Adjustment Act) requires FHFA, as well as other Federal agencies with the authority to issue civil money penalties (CMPs), to adjust by regulation the maximum amount of each CMP authorized by law that the agency has jurisdiction to administer.<sup>5</sup> The Inflation Adjustment Act required agencies to make an initial adjustment of their CMPs upon the statute's enactment, and further requires agencies to make additional adjustments on an ongoing basis, every four years following the initial adjustment. The purpose of these periodic adjustments is to maintain the deterrent effect of CMPs and promote compliance with the law. Subpart E of FHFA's Rules of Practice and Procedure sets forth the Civil Money Penalty Inflation Adjustment amounts and prescribes their applicability. *See* 12 CFR 1209.81.<sup>6</sup>

Under the Inflation Adjustment Act, the inflation adjustment for each applicable CMP is determined by increasing the maximum CMP amount per violation by a cost-of-living adjustment. As described in detail below, the Inflation Adjustment Act provides that this cost-of-living adjustment reflect the percentage increase in the Consumer Price Index since the CMPs were last adjusted or established, and rounded in accordance with rules provided in the statute.<sup>7</sup>

**II. Differences**

When promulgating any regulation that may have future affect relating to the Banks, the Director is required by section 1201 of HERA to consider the differences between the Banks and the Enterprises with respect to the Banks' cooperative ownership structure; mission of providing liquidity to members; affordable housing and community development mission; capital structure; and joint and several liability. *See* section 1201 Public Law 110-289, 122 Stat. 2782-83 (*amending* 12 U.S.C. 4513(f)[sic]).<sup>8</sup> The Director considered the differences between the Banks and the Enterprises, as they relate to the above factors, and determined that the rule is appropriate. In sum, the five differences identified in section 1201 of HERA do not require a different enforcement regulation for the Banks than for the Enterprises. Therefore, the comparative analysis under section 1201 of HERA undertaken for the proposed rule required no changes.

**III. Description of the Rule**

This final rule adjusts the maximum penalty amount within each of the three tiers specified in 12 U.S.C. 4636 by amending the table contained in 12 CFR 1209.80 to reflect the new adjusted maximum penalty amount that FHFA

may impose upon a regulated entity or any entity-affiliated party within each tier. The increases in maximum penalty amounts contained in this final rule may not necessarily affect the amount of any CMP that FHFA may seek for a particular violation; FHFA would calculate each CMP on a case-by-case basis in light of a variety of factors.<sup>9</sup> This final rule also adjusts the maximum penalty amounts for violations under the FHFA Flood Insurance regulation by amending the text of 12 CFR 1250.3 to reflect the new adjusted maximum penalty amount that FHFA may impose for violations under that regulation.

The Inflation Adjustment Act directs federal agencies to calculate each CMP adjustment as the percentage by which the CPI-U for June of the calendar year preceding the adjustment exceeds the CPI-U for June of the calendar year in which the amount of each CMP was last set or adjusted. The maximum CMP amounts for FHFA penalties under 12 U.S.C. 4636 were set in 2008.<sup>10</sup> Since FHFA is making this round of adjustments in calendar year 2016, and the maximum CMP amounts were last set in calendar year 2008, the inflation adjustment amount for each maximum CMP amount was calculated by comparing the CPI-U for June 2008 (218.8) with the CPI-U for June 2015 (238.6), resulting in an inflation factor of 1.0905. For each maximum CMP amount, the product of this inflation adjustment and the previous maximum penalty amount was then rounded in accordance with the specific requirements of the Inflation Adjustment Act, and was then summed with the previous maximum penalty amount to determine the new adjusted maximum penalty amount.<sup>11</sup> The table below sets out these items accordingly.

U.S. Code citation	Description	Previous maximum penalty amount	Inflation increase	Rounded inflation increase	New adjusted maximum penalty amount
12 U.S.C. 4636(b)(1) .....	First Tier .....	10,000	905	1,000	11,000
12 U.S.C. 4636(b)(2) .....	Second Tier .....	50,000	4,525	5,000	55,000
12 U.S.C. 4636(b)(4) .....	Third Tier (Entity-affiliated party and Regulated entity).	2,000,000	181,000	175,000	2,175,000

<sup>2</sup> See Safety and Soundness Act, 12 U.S.C. 4513 and 4631-4641.

<sup>3</sup> See 12 CFR part 1209.

<sup>4</sup> See 12 CFR part 1250.

<sup>5</sup> See 28 U.S.C. 2461 note.

<sup>6</sup> Periodic inflation adjustments of the FHFA Flood Insurance regulation are set forth in 12 CFR 1250.3.

<sup>7</sup> The Inflation Adjustment Act specifically identifies the Consumer Price Index for All Urban

Consumers published by the United States Department of Labor (CPI-U).

<sup>8</sup> So in original; no paragraphs (d) and (e) were enacted. *See* 12 U.S.C.A. 4513 n 1.

<sup>9</sup> See, e.g., 12 CFR 1209.7(c); FHFA Enforcement Policy, AB 2013-03 (May 31, 2013).

<sup>10</sup> See 12 U.S.C. 4636.

<sup>11</sup> The statute's rounding rules require that each increase be rounded to the nearest multiple as follows: \$10 in the case of penalties less than or

equal to \$100; \$100 in the case of penalties greater than \$100 but less than or equal to \$1,000; \$1,000 in the case of penalties greater than \$1,000 but less than or equal to \$10,000; \$5,000 in the case of penalties greater than \$10,000 but less than or equal to \$100,000; \$10,000 in the case of penalties greater than \$100,000 but less than or equal to \$200,000; and \$25,000 in the case of penalties greater than \$200,000.

The CMP for FHFA penalties under the Flood Insurance regulation were set in 2009.<sup>12</sup> Since FHFA is making this round of adjustments in calendar year 2016, and the maximum CMP amounts

were last set in calendar year 2009, the inflation adjustment amount for each maximum CMP amount was calculated by comparing the CPI-U for June 2009 (215.7) with the CPI-U for June 2015

(238.6), resulting in an inflation factor of 1.1061. The table below sets out these items accordingly.

U.S. Code citation	Description	Previous maximum penalty amount	Inflation increase	Rounded inflation increase	New adjusted maximum penalty amount
42 U.S.C. 4012a(f)(5) .....	Maximum penalty per violation .....	485	51.55	100	585
42 U.S.C. 4012a(f)(5) .....	Maximum total penalties assessed against an Enterprise in a calendar year.	140,000	14,854	10,000	150,000

**IV. Regulatory Impact**

*Administrative Procedure Act*

FHFA finds good cause that notice and an opportunity to comment on this document are unnecessary under section 553(b) of the Administrative Procedure Act (APA), 5 U.S.C. 553(b). This rulemaking conforms with and is consistent with the statutory directive set forth in the Inflation Adjustment Act. As a result, there are no issues of policy discretion about which to seek public comment. Accordingly, FHFA is issuing the amendments as a final rule.

In addition, FHFA finds good cause to make this rule effective upon publication of this document in the **Federal Register** under the APA. *See* 5 U.S.C. 553(d). This final rule does not impose any additional responsibilities on any entity and therefore requires no adjustment to any entity’s current operations, policies, or practices. Instead, it simply adjusts the amount of each CMP tier as dictated by the Inflation Adjustment Act.

*Regulatory Flexibility Act*

Pursuant to the Regulatory Flexibility Act (RFA),<sup>13</sup> an agency must prepare a regulatory flexibility analysis for all proposed and final rules that describes the impact of the rule on small entities, unless the head of an agency certifies

that the rule will not have “a significant economic impact on a substantial number of small entities.” However, the RFA applies only to rules for which an agency publishes a general notice of proposed rulemaking pursuant to the APA.<sup>14</sup> As discussed above, FHFA has determined for good cause that the APA does not require notice and public comment on this rule and, therefore, FHFA is not publishing a general notice of proposed rulemaking. Thus, the RFA does not apply to this final rule.

*Paperwork Reduction Act*

The Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) requires that regulations involving the collection of information receive clearance from the Office of Management and Budget (OMB). This rule contains no such collection of information requiring OMB approval under the Paperwork Reduction Act. Consequently, no information has been submitted to OMB for review.

**List of Subjects**

*12 CFR Part 1209*

Administrative practice and procedure, Penalties.

*12 CFR Part 1250*

Flood insurance, Government-sponsored enterprises, Penalties,

Reporting and recordkeeping requirements.

Accordingly, for the reasons stated in the **SUPPLEMENTARY INFORMATION** and under the authority of 12 U.S.C. 4513b and 12 U.S.C. 4526, the Federal Housing Finance Agency hereby amends subchapters A and C of chapter XII of Title 12 of the Code of Federal Regulations as follows:

**SUBCHAPTER A—ORGANIZATION AND OPERATIONS**

**PART 1209—RULES OF PRACTICE AND PROCEDURE**

■ 1. The authority citation for part 1209 continues to read as follows:

**Authority:** 5 U.S.C. 554, 556, 557, and 701 *et seq.*; 12 U.S.C. 1430c(d); 12 U.S.C. 4501, 4502, 4503, 4511, 4513, 4513b, 4517, 4526, 4566(c)(1) and (c)(7), 4581–4588, 4631–4641; and 28 U.S.C. 2461 note.

■ 2. Revise § 1209.80 to read as follows:

**§ 1209.80 Inflation adjustments.**

The maximum amount of each civil money penalty within FHFA’s jurisdiction, as set by the Safety and Soundness Act and thereafter adjusted in accordance with the Inflation Adjustment Act, is as follows:

U.S. Code citation	Description	New adjusted maximum penalty amount
12 U.S.C. 4636(b)(1) .....	First Tier .....	\$11,000
12 U.S.C. 4636(b)(2) .....	Second Tier .....	55,000
12 U.S.C. 4636(b)(4) .....	Third Tier (Entity-Affiliated party) .....	2,175,000
12 U.S.C. 4636(b)(4) .....	Third Tier (Regulated entity) .....	2,175,000

■ 3. Revise § 1209.81 to read as follows:

**§ 1209.81 Applicability.**

The inflation adjustments set out in § 1209.80 shall apply to civil money penalties assessed in accordance with

the provisions of the Safety and Soundness Act, 12 U.S.C. 4636, and subparts B and C of this part, for

<sup>12</sup> See 74 FR 2349 (Jan. 15, 2009).

<sup>13</sup> 5 U.S.C. 603.

<sup>14</sup> 5 U.S.C. 603(a), 604(a).

violations occurring after February 22, 2016.

## SUBCHAPTER C—ENTERPRISES

### PART 1250—FLOOD INSURANCE

■ 4. The authority citation for part 1250 continues to read as follows:

**Authority:** 12 U.S.C. 4521(a)(4) and 4526; 28 U.S.C. 2461 note; 42 U.S.C. 4001 note; 42 U.S.C. 4012a(f)(3), (4), (5), (8), (9), and (10).

■ 5. Revise § 1250.3(c) to read as follows:

#### § 1250.3 Civil money penalties.

\* \* \* \* \*

(c) *Amount.* The maximum civil money penalty amount is \$485 for each violation that occurs before February 22, 2016, with total penalties not to exceed \$140,000. For violations that occur on or after February 22, 2016, the civil money penalty under this section may not exceed \$585 for each violation, with total penalties assessed under this section against an Enterprise during any calendar year not to exceed \$150,000.

\* \* \* \* \*

Dated: February 15, 2016.

**Melvin L. Watt,**

*Director, Federal Housing Finance Agency.*

[FR Doc. 2016-03631 Filed 2-19-16; 8:45 am]

**BILLING CODE 8070-01-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2015-2456; Directorate Identifier 2015-NM-032-AD; Amendment 39-18401; AD 2016-04-07]

RIN 2120-AA64

#### Airworthiness Directives; The Boeing Company Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** We are adopting a new airworthiness directive (AD) for all The Boeing Company Model 767 airplanes. This AD was prompted by reports of cracking at a central part of the structure. This AD requires repetitive inspections of the skin hidden by the upper and lower splice fittings on both sides of the fuselage, and corrective action if necessary. We are issuing this AD to detect and correct fatigue cracking of the hidden fuselage skin and cracking, corrosion, and other damage to the splice fittings and adjacent visible fuselage skin and structure that could

lead to loss of a primary load path between the fuselage and the wing box, and consequent reduced structural integrity of the airplane.

**DATES:** This AD is effective March 28, 2016.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of March 28, 2016.

**ADDRESSES:** For service information identified in this final rule, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H-65, Seattle, WA 98124-2207; telephone 206-544-5000, extension 1; fax 206-766-5680; Internet <https://www.myboeingfleet.com>. You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425-227-1221. It is also available on the Internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2015-2456.

#### Examining the AD Docket

You may examine the AD docket on the Internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2015-2456; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800-647-5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590.

#### FOR FURTHER INFORMATION CONTACT:

Wayne Lockett, Aerospace Engineer, Airframe Branch, ANM-120S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057-3356; phone: 425-917-6447; fax: 425-917-6590; email: [wayne.lockett@faa.gov](mailto:wayne.lockett@faa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all The Boeing Company Model 767 airplanes. The NPRM published in the **Federal Register** on July 6, 2015 (80 FR 38408) (“the NPRM”). The NPRM was prompted by reports of cracking at a central part of the structure. The

NPRM proposed to require repetitive inspections of the skin hidden by the upper and lower splice fittings on both sides of the fuselage, and corrective action if necessary. We are issuing this AD to detect and correct fatigue cracking of the hidden fuselage skin and cracking, corrosion, and other damage to the splice fittings and adjacent visible fuselage skin and structure that could lead to loss of a primary load path between the fuselage and the wing box, and consequent reduced structural integrity of the airplane.

#### Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the NPRM and the FAA’s response to each comment. Boeing stated that it concurs with the NPRM. United Parcel Service (UPS) and United Airlines stated that they have no comments on the NPRM. FedEx Express provided information on how the NPRM affects its fleet but made no requests.

#### Request Clarification on the Effect of Winglets on Accomplishment of the Proposed Actions

Aviation Partners Boeing stated that accomplishing Supplemental Type Certificate (STC) ST01920SE ([http://rgl.faa.gov/Regulatory\\_and\\_Guidance\\_Library/rgstc.nsf/0/59027f43b9a7486e86257b1d006591ee/\\$FILE/ST01920SE.pdf](http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/59027f43b9a7486e86257b1d006591ee/$FILE/ST01920SE.pdf)) does not affect the actions specified in the NPRM.

We concur with the commenter. We have redesignated paragraph (c) of the proposed AD as paragraph (c)(1) of this AD and added new paragraph (c)(2) to this AD to state that installation of STC ST01920SE does not affect the ability to accomplish the actions required by this AD. Therefore, for airplanes on which STC ST01920SE is installed, a “change in product” alternative method of compliance (AMOC) approval request is not necessary to comply with the requirements of 14 CFR 39.17.

#### Conclusion

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting this AD with the change described previously and minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

We also determined that these changes will not increase the economic