

and Administrative Services Act of 1949, as amended, shall be used for lease construction projects, including projects with options to purchase the real property leased. The design-build selection procedures in section 303M shall be used when the lease involves the design and construction of a public building, facility or work for lease to the Government when the contracting officer determines that this method is appropriate, based on the following:

- (1) Three or more offers are anticipated;
- (2) A substantial amount of design work will be performed by offerors, that may result in offerors incurring substantial expenses in preparing offers; and
- (3) Criteria, such as the following, have been considered:
 - (i) The extent to which the project requirements have been adequately defined;
 - (ii) The time constraints for delivery of the project;
 - (iii) The capability and experience of potential contractors;
 - (iv) The suitability of the project for use of the two-phase selection procedures;
 - (v) The capability of the agency to manage the two-phase selection process; and
 - (vi) Other criteria established by the head of the contracting activity.

Dated: January 27, 1997.

Ida M. Ustad,

Deputy Associate Administrator, Office of Acquisition Policy.

[FR Doc. 97-2626 Filed 2-3-97; 8:45 am]

BILLING CODE 6820-61-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 578

[Docket No. 97-2; Notice 1]

RIN 2105-AC63

Civil Penalties

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: This document specifies the civil penalties for violating NHTSA statutes and regulations, including Federal Motor Vehicle Safety Standards, as adjusted in accordance with the Federal Civil Monetary Penalty Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996.

DATES: *Effective Date:* The amendments made in this rule are effective March 6, 1997.

FOR FURTHER INFORMATION CONTACT:

Taylor Vinson, Office of Chief Counsel, NHTSA, telephone (202) 366-5263, facsimile (202) 366-3820, electronic mail "TVinson@nhtsa.dot.gov", 400 Seventh Street, SW, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

I. The Debt Collection Improvement Act of 1996

In order to preserve the remedial impact of civil penalties and foster compliance with the law, the Federal Civil Monetary Penalty Inflation Adjustment Act of 1990 (Pub. L. 101-410), as amended by the Debt Collection Improvement Act of 1996 (Pub. L. 104-134), requires Federal agencies to regularly adjust certain civil penalties for inflation. As amended, the law requires each agency to make an initial inflationary adjustment for all applicable civil penalties, and to make further adjustments at least once every four years of these penalty amounts.

The Debt Collection Improvement Act of 1996 further stipulates that any resulting increases in a civil penalty due to the calculated inflation adjustments (i) should apply only to violations that occur after October 23, 1996—the Act's effective date—and (ii) should not exceed 10 percent of the penalty indicated.

Method of Calculation

Under the Federal Civil Monetary Inflation Adjustment Act as amended, the inflation adjustment for each applicable civil penalty is determined by increasing the maximum civil penalty amount per violation by the cost-of-living adjustment. The "cost-of-living" adjustment is defined as the amount by which the Consumer Price Index (CPI) for the month of June of the calendar year preceding the adjustment exceeds the CPI for the month of June of the year in which the amount of such civil penalty was last set or adjusted pursuant to law. Any calculated increase under this adjustment is subject to a specific rounding formula set forth in the Debt Collection Improvement Act of 1996.

For example, pursuant to section 30165(a) of Title 49 of the United States Code, the National Highway Traffic Safety Administration (NHTSA) may impose a civil penalty of up to \$1,000 per violation against individuals and manufacturers that violate specified provisions of 49 U.S.C. Chapter 301, "Motor Vehicle Safety." This penalty

amount was originally set in 1966. The consumer price index is 456.7 for June 1996 and 97.1 for June 1966. Therefore, the inflation factor is 456.7/97.1 or 4.7. The maximum penalty amount after the increase and statutory rounding would be \$4,700. After applying the 10 percent limit on an initial increase, however, the new maximum penalty amount per violation is \$1,100.

II. NHTSA Civil Penalties Affected by this Adjustment

Title 49 of the United States Code includes several statutory provisions administered by NHTSA under which civil penalties are authorized. Today's final rule specifies these civil penalties, as adjusted pursuant to the Debt Collection Improvement Act of 1996.

A. Motor Vehicle Safety

Chapter 301 of Title 49 of the United States Code imposes a variety of requirements upon manufacturers of motor vehicles and items of motor vehicle equipment and other persons in order to reduce traffic crashes and deaths and injuries resulting from such crashes. Prior to the effective date of today's final rule, violators of Chapter 301 or regulations issued thereunder were subject to a civil penalty of not more than \$1,000 for each violation and not more than \$800,000 for a related series of violations. 49 U.S.C. 30165.

Pursuant to the inflation adjustment methodology included in the Debt Collection Act, today's final rule increases the civil penalty for a violation of Chapter 301 or a regulation prescribed thereunder to \$1,100 per violation, with a maximum of \$880,000 for a related series of violations.

B. National Automobile Title Information System

Chapter 305 of Title 49 of the United States Code and regulations issued thereunder include a number of provisions that facilitate the tracing and recovery of parts from stolen vehicles. Prior to the effective date of today's final rule, violators of Chapter 305 were subject to a civil penalty of not more than \$1,000 for each violation. 49 U.S.C. 30505.

Pursuant to the inflation adjustment methodology included in the Debt Collection Act, today's final rule increases the civil penalty for a violation of Chapter 305 to \$1,100 per violation.

C. Bumper Standards

Chapter 325 of Title 49 of the United States Code was enacted to reduce the economic loss resulting from damage to passenger motor vehicles involved in

crashes by providing for the maintenance and enforcement of bumper standards. Pursuant to Chapter 325, NHTSA has adopted 49 CFR part 581, which requires passenger motor vehicles to meet specified testing criteria. Prior to the effective date of today's final rule, violators of Chapter 325 or regulations issued thereunder were subject to a civil penalty of not more than \$1,000 for each violation and not more than \$800,000 for a related series of violations. 49 U.S.C. 32507(a).

Pursuant to the inflation adjustment methodology included in the Debt Collection Act, today's final rule increases the civil penalty for a violation of Chapter 325 to not more than \$1,100 per violation, with a maximum of \$880,000 for a related series of violations.

D. Consumer Information Regarding Crashworthiness and Damage Susceptibility

To ensure that the public is provided with the information it needs to determine the crashworthiness and damage susceptibility of motor vehicles, various provisions of Chapter 323 of Title 49 of the United States Code require vehicle manufacturers and others to provide certain information to the Secretary of Transportation and to prospective buyers. Prior to the effective date of today's final rule, violators of these requirements were subject to a civil penalty of not more than \$1,000 for each violation and not more than \$400,000 for a related series of violations. 49 U.S.C. 32308(b).

Pursuant to the inflation adjustment methodology included in the Debt Collection Act, today's final rule increases the civil penalty for a violation of these provisions of Chapter 323 to not more than \$1,100 per violation, with a maximum of \$440,000 for a related series of violations.

E. Country of Origin Content Labeling

Section 32304 of Title 49 of the United States Code requires manufacturers, importers, and dealers to attach and maintain labels containing specific information on the country of origin of a new passenger motor vehicle's content. Prior to the effective date of today's rule, violators of section 32304 were subject to a civil penalty of not more than \$1,000 per violation. 49 U.S.C. 32309(b).

Pursuant to the inflation adjustment methodology included in the Debt Collection Act, today's final rule increases the civil penalty for a violation of section 32304 to not more than \$1,100 per violation.

F. Odometer Tampering and Disclosure

To ensure that motor vehicle purchasers have reliable information to help them ascertain the condition and value of a motor vehicle, Chapter 327 of Title 49 and regulations issued thereunder prohibit tampering with a motor vehicle's odometer and prescribe certain safeguards to protect buyers from purchasing motor vehicles with altered or reset odometers. Prior to the effective date of today's final rule, violators of Chapter 327 were subject to a civil penalty of not more than \$2,000 for each violation and not more than \$100,000 for a related series of violations. 49 U.S.C. 32709(a). In addition, section 32710(a) subjected violators of Chapter 327 or any regulation prescribed or order issued under the chapter, with intent to defraud, to a penalty of three times the actual damages or \$1,500, whichever was greater.

Pursuant to the inflation adjustment methodology included in the Debt Collection Act, today's final rule increases the civil penalty for a violation of Chapter 327 to not more than \$2,200 per violation, with a maximum of \$110,000 for a related series of violations. Further, any person violating Chapter 327 or any regulation prescribed or order issued thereunder, with intent to defraud, is liable for three times the actual damages or \$1,650, whichever is greater.

G. Vehicle Theft Prevention

Chapter 331 of Title 49 of the United States Code includes a number of provisions that facilitate the tracing and recovery of parts from stolen vehicles. Prior to the effective date of today's final rule, violators of section 33114(a)(1)–(4) of Title 49 were subject to a civil penalty of not more than \$1,000 for each violation and not more than \$250,000 for a related series of violations. 49 U.S.C. § 33115(a). In addition, prior to today's rule, violators of section 33114(a)(5) of Title 49 (relating to "chop shops") were subject to a civil penalty of not more than \$100,000 a day for each violation. 49 U.S.C. 30115(b).

Pursuant to the inflation adjustment methodology included in the Debt Collection Act, today's final rule increases the civil penalty for a violation of sections 33114(a)(1)–(4) to not more than \$1,100 per violation, with a maximum of \$275,000 for a related series of violations. Today's final rule also increases the civil penalty for a violation of section 33114(a)(5) to not more than \$110,000 a day for each violation.

H. Automobile Fuel Economy

Chapter 329 of Title 49 of the United States Code includes numerous provisions designed to improve automotive fuel economy in the United States. Among other things, Chapter 329 directs NHTSA to issue and enforce automobile fuel economy standards. Prior to the effective date of today's rule, violators of specified provisions of Chapter 329 set out in section 32911(a), and regulations, standards, and orders issued under those provisions, were subject to a civil penalty of not more than \$10,000 for each violation. A separate violation occurs for each day the violation continues. 49 U.S.C. 32912(a). In addition, manufacturers that violate a fuel economy standard were subject to a civil penalty of \$5.00 multiplied by each one-tenth of a mile a gallon by which the applicable average fuel economy standard exceeds the average fuel economy of the manufacturer's vehicles subject to a standard, multiplied by the number of those automobiles, reduced by the credits available to the manufacturer under section 32903. 49 U.S.C. 32912(b).

Pursuant to the inflation adjustment methodology included in the Debt Collection Act, today's final rule increases the civil penalty for a violation of section 32911(a) to not more than \$11,000 per violation. In addition, the civil penalty for a violation of a fuel economy standard will be assessed at a rate of \$5.50 multiplied by each one-tenth of a mile a gallon by which the applicable average fuel economy standard exceeds the average fuel economy of a manufacturer's vehicles subject to a standard, multiplied by the number of those automobiles, reduced by the credits available to the manufacturer.

Effective Date

NHTSA finds good cause to make this amendment effective 30 days after publication of this document under the Administrative Procedures Act. 5 U.S.C. 553(d). This document does not impose any additional responsibilities on any manufacturer. Instead, this document simply adjusts the civil penalties as directed by the Debt Collection Improvement Act of 1996.

NHTSA also finds for good cause that notice and an opportunity to comment on this document are unnecessary under the Administrative Procedure Act. 5 U.S.C. 553(b)(3)(B). This rulemaking conforms with and is consistent with the statutory authority set forth in the Debt Collection Act of 1996, with no issues of policy discretion.

Consequently, the agency believes that opportunity for prior comment is unnecessary and is issuing these requirements as a final rule that will apply to all future decisions under this authority.

Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

NHTSA has considered the impact of this rulemaking action under E.O. 12866 and the Department of Transportation's regulatory policies and procedures. This rulemaking document was not reviewed under E.O. 12866, "Regulatory Planning and Review." This action is limited to the adoption of statutory language, without interpretation, and has been determined to be not "significant" under the Department of Transportation's regulatory policies and procedures.

Regulatory Flexibility Act

NHTSA has also considered the impacts of this notice under the Regulatory Flexibility Act. I hereby certify that this final rule has no significant economic impact on a substantial number of small entities. As explained above, this action is limited to the adoption of statutory language, without interpretation, and has been determined to be not "significant" under the Department of Transportation's regulatory policies and procedures.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96-511), there are no requirements for information collection associated with this final rule.

National Environmental Policy Act

NHTSA has also analyzed this final rule under the National Environmental Policy Act and determined that it has no significant impact on the human environment.

Executive Order 12612 (Federalism)

NHTSA has analyzed this proposal in accordance with the principles and criteria contained in E.O. 12612, and has determined that this final rule has no significant federalism implications to warrant the preparation of a Federalism Assessment.

Civil Justice Reform

This final 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.

List of Subjects in 49 CFR Part 578

Imports, Motor vehicle safety, Motor vehicles, Penalties, Rubber and Rubber Products, Tires.

For the reasons set forth in the preamble, NHTSA is adding a new Part 578 to Title 49 of the Code of Federal Regulations to read as follows:

PART 578—CIVIL PENALTIES

Sec.

578.1 Scope.

578.2 Purpose.

578.3 Applicability.

578.4 Definitions.

578.5 Inflationary adjustment of civil penalties.

578.6 Penalties for violations of specified provisions of Title 49 of the United States Code.

Authority: Pub. L. 101-410, Pub. L. 104-134, 49 U.S.C. 30165, 30505, 32308, 32309, 32507, 32709, 32710, 32912, and 33115; delegation of authority at 49 CFR 1.50.

§ 578.1 Scope.

This part specifies the civil penalties for violations of statutes administered by the National Highway Traffic Safety Administration, as adjusted for inflation.

§ 578.2 Purpose.

The purpose of this part is to preserve the remedial impact of civil penalties and to foster compliance with the law by specifying the civil penalties for statutory violations, as adjusted for inflation.

§ 578.3 Applicability.

This part applies to civil penalties for violations of Chapters 301, 305, 323, 325, 327, 329, and 331 of Title 49 of the United States Code.

§ 578.4 Definitions.

All terms used in this part that are defined in sections 30102, 30501, 32101, 32702, 32901, and 33101 of Title 49 of the United States Code are used as defined in the appropriate statute.

Administrator means the Administrator of the National Highway Traffic Safety Administration.

Civil penalty means any penalty, fine, or other sanction that:

(1) Is for a specific monetary amount as provided by Federal law, or has a maximum amount provided for by Federal law; and

(2) Is assessed, compromised, collected, or enforced by NHTSA pursuant to Federal law.

NHTSA means the National Highway Traffic Safety Administration.

§ 578.5 Inflationary adjustment of civil penalties.

The civil penalties set forth in this part continue in effect until adjusted by the Administrator. At least once every four years, the Administrator shall review the amount of these civil penalties and will, if appropriate, adjust them by rule.

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

(a) *Motor Vehicle Safety.* A person that violates any of sections 30112, 30115, 30117-30122, 30123(d), 30125(c), 30127, 30141-30147, or 30166 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 \$1,100 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 \$880,000.

(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 \$1,100 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 \$1,100 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 for a related series of violations is \$880,000.

(d) *Consumer information regarding crashworthiness and damage susceptibility.* A person that violates 49 U.S.C. 32308(a) is liable to the United States Government for a civil penalty of not more than \$1,100 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 \$440,000.

(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 \$1,100 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 \$2,200 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 \$110,000.

(2) A person that violates 49 U.S.C. Chapter 327 or a regulation prescribed or order is issued thereunder, with intent to defraud, is liable for three times the actual damages or \$1,650, 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 \$1,100 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 \$275,000.

(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 \$110,000 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 \$11,000 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 \$5.50 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.

Issued on January 30, 1997.

Ricardo Martinez,

Administrator.

[FR Doc. 97-2745 Filed 2-3-97; 8:45 am]

BILLING CODE 4910-59-P

Surface Transportation Board

49 CFR Part 1142

[STB Ex Parte No. 621]

Removal of Obsolete Regulations Concerning Expedited Complaint Procedures Against Bus Carrier Rates

AGENCY: Surface Transportation Board, Transportation.

ACTION: Final rule.

SUMMARY: The Surface Transportation Board (Board) is removing from the Code of Federal Regulations obsolete regulations concerning expedited complaint procedures against bus rates. **EFFECTIVE DATE:** February 4, 1997.

FOR FURTHER INFORMATION CONTACT:

Beryl Gordon, (202) 927-5660. [TDD for the hearing impaired: (202) 927-5721.]

SUPPLEMENTARY INFORMATION: Effective January 1, 1996, the ICC Termination Act of 1995, Public Law No. 104-88, 109 Stat. 803 (ICCTA), abolished the Interstate Commerce Commission (ICC) and established the Board within the Department of Transportation. Section 204(a) of the ICCTA provides that "[t]he Board shall promptly rescind all regulations established by the [ICC] that are based on provisions of law repealed and not substantively reenacted by this Act."

As here relevant, the Bus Regulatory Reform Act of 1982 (Bus Act) established a zone of rate freedom (ZORF) within which bus carriers could raise or lower their rates without being subject to protest and investigation or suspension. Former 49 U.S.C. 10708(d)(4). The ZORF expanded by specified percentages over a 3-year period (former section 10708(d)(5)). After 3 years, the zone became unlimited. As a result, the ICC could not suspend or investigate a proposed rate on unreasonableness grounds unless the proposed rate was established collectively under an agreement approved by the ICC under former 49 U.S.C. 10706(b). Former 49 U.S.C.

10708(e). Parties, however, could file complaints challenging the reasonableness of rates established within the ZORF, and, after 3 years, of any effective rate or fare filed under section 10708. Former 49 U.S.C. 10708(f). The resulting complaint proceedings were to be resolved within 90 days. *Id.* Consequently, the ICC established at 49 CFR part 1142 expedited procedures for filing and handling such complaints against effective bus rates or fares established under the ZORF on grounds that they were unreasonably high or low. *Procedures-Complaints Against Bus Car. Rates & Fares*, 133 M.C.C. 50 (1982), *modified on reopening*, 133 M.C.C. 240 (1983).

Under the ICCTA, the Board has jurisdiction to determine the reasonableness of rates or fares of motor carrier of passengers only if they are made collectively under agreements pursuant to new 49 U.S.C. 13703. New 49 U.S.C. 13703(a)(5). Moreover, the ICCTA eliminated the provisions under former section 10708(d) and (f) concerning the ZORF and the expedited procedures for filing complaints. Because the statutory basis for the regulations at 49 CFR part 1142 has been eliminated, we will remove those regulations. We note that parties still may file complaints against bus carriers under our regulations at 49 CFR part 1111.

Because this action merely reflects, and is required by, the enactment of the ICCTA and will not have an adverse effect on the interests of any person, this action will be made effective on the date of publication in the Federal Register.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

List of Subjects in 49 CFR Part 1142

Administrative practice and procedure, Buses.

Decided: January 24, 1997.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams,
Secretary.

PART 1142—[REMOVED]

For the reasons set forth in the preamble and under the authority of 49 U.S.C. 721(a), title 49, chapter X of the Code of Federal Regulations is amended by removing Part 1142.

[FR Doc. 97-2548 Filed 2-3-97; 8:45 am]

BILLING CODE 4915-00-P