

# Rules and Regulations

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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.

## MERIT SYSTEMS PROTECTION BOARD

### 5 CFR Part 1201

#### Civil Monetary Penalty Inflation Adjustment

**AGENCY:** Merit Systems Protection Board.

**ACTION:** Final rule.

**SUMMARY:** This final rule adjusts the level of civil monetary penalties (CMPs) in regulations maintained and enforced by the Merit Systems Protection Board (MSPB) with an annual adjustment under the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (the 2015 Act) and Office of Management and Budget (OMB) guidance.

**DATES:** This final rule is effective on January 21, 2022.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Everling, Acting Clerk of the Board, Merit Systems Protection Board, 1615 M Street NW, Washington, DC 20419; phone: (202) 653-7200; Fax: (202) 653-7130; or email: [mspb.gov](mailto:mspb.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The Federal Civil Penalties Inflation Adjustment Act of 1990 (the 1990 Act), Public Law 101-410, provides for the regular evaluation of CMPs by Federal agencies. Periodic inflationary adjustments of CMPs ensure that the consequences of statutory violations adequately reflect the gravity of such offenses and that CMPs are properly accounted for and collected by the Federal Government. In April 1996, the 1990 Act was amended by the Debt Collection Improvement Act of 1996 (the 1996 Act), Public Law 104-134, requiring Federal agencies to adjust their CMPs at least once every four years. However, because inflationary adjustments to CMPs were statutorily capped at ten percent of the maximum

penalty amount, but only required to be calculated every four years, CMPs in many cases did not correspond with the true measure of inflation over the preceding four-year period, leading to a decline in the real value of the penalty. To remedy this decline, the 2015 Act (section 701 of Pub. L. 114-74) requires agencies to adjust CMP amounts with annual inflationary adjustments through a rulemaking using a methodology mandated by the legislation. The purpose of these adjustments is to maintain the deterrent effect of civil penalties.

A civil monetary penalty is “any penalty, fine, or other sanction” that: (1) “is for a specific amount” or “has a maximum amount” under Federal law; and (2) a Federal agency assesses or enforces “pursuant to an administrative proceeding or a civil action in the Federal courts.” 28 U.S.C. 2461 note.

The MSPB is authorized to assess CMPs pursuant to 5 U.S.C. 1215(a)(3) and 5 U.S.C. 7326 in disciplinary actions brought by the Special Counsel. The corresponding MSPB regulation for both CMPs is 5 CFR 1201.126(a). As required by the 2015 Act, and pursuant to guidance issued by OMB, MSPB is now making an annual adjustment for 2022, according to the prescribed formulas.

##### II. Calculation of Adjustment

The CMP listed in 5 U.S.C. 1215(a)(3) was established in 1978 with the enactment of the Civil Service Reform Act of 1978 (CSRA), Public Law 95-454, section 202(a), 92 Stat. 1121-30 (Oct. 13, 1978), and originally codified at 5 U.S.C. 1207(b). That CMP was last amended by section 106 of the Whistleblower Protection Enhancement Act of 2012, Public Law 112-199, 12 Stat. 1468 (Nov. 27, 2012), now codified at 5 U.S.C. 1215(a)(3), which provided for a CMP “not to exceed \$1,000.” The CMP authorized in 5 U.S.C. 7326 was established in 2012 by section 4 of the Hatch Act Modernization Act of 2012 (Hatch Act), Public Law 112-230, 126 Stat. 1617 (Dec. 28, 2012), which provided for a CMP “not to exceed \$1,000.” On February 2, 2021, MSPB issued a final rule which increased the maximum CMP allowed under both 5 U.S.C. 1215(a)(3) and 5 U.S.C. 7326 to \$1,125 for the year 2021. See 86 FR 7797 (Feb. 2, 2021). This increase reflected

the annual increase for the year 2021 mandated by the 2015 Act.

On December 15, 2021, OMB issued guidance on calculating the annual inflationary adjustment for 2022. See Memorandum from Shalanda D. Young, Acting Dir., OMB, to Heads of Executive Departments and Agencies re: Implementation of Penalty Inflation Adjustments for 2022, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, M-22-07 (Dec. 15, 2021). Therein, OMB notified agencies that the annual adjustment multiplier for 2022, based on the Consumer Price Index for All Urban Consumers (CPI-U), is 1.06222 and that the 2022 annual adjustment amount is obtained by multiplying the 2021 penalty amount by the 2022 annual adjustment multiplier, and rounding to the nearest dollar. Therefore, the new maximum penalty under the CSRA and the Hatch Act is  $\$1,125 \times 1.06222 = \$1,195.00$ .

##### III. Effective Date of Penalties

The revised CMP amounts will go into effect on January 21, 2022. All violations for which CMPs are assessed after the effective date of this rule will be assessed at the adjusted penalty level regardless of whether the violation occurred before the effective date.

##### IV. Procedural Requirements

###### A. Administrative Procedure Act

Pursuant to 5 U.S.C. 553(b), the MSPB has determined that good cause exists for waiving the general notice of proposed rulemaking and public comment procedures as to these technical amendments. The notice and comment procedures are being waived because Congress has specifically exempted agencies from these requirements when implementing the 2015 Act. The 2015 Act explicitly requires the agency to make subsequent annual adjustments notwithstanding 5 U.S.C. 553, the section of the Administrative Procedure Act that normally requires agencies to engage in notice and comment. It is also in the public interest that the adjusted rates for CMPs under the CSRA and the Hatch Act become effective as soon as possible to maintain their effective deterrent effect.

*B. Regulatory Impact Analysis:  
E.O.12866*

The MSPB has determined that this is not a significant regulatory action under E.O. 12866. Therefore, no regulatory impact analysis is required.

*C. Regulatory Flexibility Act*

The Regulatory Flexibility Act (RFA) requires an agency to prepare a regulatory flexibility analysis for rules unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The RFA applies only to rules for which an agency is required to first publish a proposed rule. See 5 U.S.C. 603(a) and 604(a). As discussed above, the 2015 Act does not require agencies to first publish a proposed rule when adjusting CMPs within their jurisdiction. Thus, the RFA does not apply to this final rule.

*D. Paperwork Reduction Act*

This document does not contain information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. Chapter 35).

*E. Congressional Review Act*

Pursuant to the Congressional Review Act (5 U.S.C. 801, *et seq.*), the Office of Information and Regulatory Affairs designated this rule as not a “major rule” as defined by 5 U.S.C. 804(2).

**List of Subjects in 5 CFR Part 1201**

Administrative practice and procedure, Civil rights, Government employees.

For the reasons set forth above, 5 CFR part 1201 is amended as follows:

**PART 1201—PRACTICES AND PROCEDURES**

■ 1. The authority citation for part 1201 continues to read as follows:

**Authority:** 5 U.S.C. 1204, 1305, and 7701, and 38 U.S.C. 4331, unless otherwise noted.

**§ 1201.126 [Amended]**

■ 2. Section 1201.126 is amended in paragraph (a) by removing “\$1,125” and adding in its place “\$1,195.”

**Jennifer Everling,**

*Acting Clerk of the Board.*

[FR Doc. 2022–01122 Filed 1–20–22; 8:45 am]

**BILLING CODE 7401–01–P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

[Docket No. FAA–2021–0189; Project Identifier AD–2020–00645–R; Amendment 39–21875; AD 2021–26–16]

**RIN 2120–AA64**

**Airworthiness Directives; Various Restricted Category Helicopters**

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

**ACTION:** Final rule.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for certain type certificated Model UH–1H restricted category helicopters. This AD was prompted by multiple reports of failure of the main driveshaft. This AD requires establishing a limit to replace certain main driveshafts, and a one-time and repetitive inspections of the main driveshafts. The FAA is issuing this AD to address the unsafe condition on these products.

**DATES:** This AD is effective February 25, 2022.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of February 25, 2022.

**ADDRESSES:** For service information identified in this final rule, contact U.S. Army Materiel Command Logistics Data Analysis Center (USAMC LDAC), ATTN: Equipment Publication Control Officers (EPCOs), Building 3305, Redeye Road, Redstone Arsenal, AL 35898–7466; telephone (256) 955–7716 or 1–866–211–3367; email [usarmy.redstone.ldac.mbx.logetm@mail.mil](mailto:usarmy.redstone.ldac.mbx.logetm@mail.mil); or at <https://enterprise.armyerp.army.mil>.

You may also contact the following as applicable:

Arrow Falcon Exporters Inc., 2081 S Wildcat Way, Porterville, CA 93257; telephone (559) 781–8604; fax (559) 781–9271; email [afe@arrowfalcon.com](mailto:afe@arrowfalcon.com).

Global Helicopter Technology, Inc., P.O. Box 180681, Arlington, Texas 76096; telephone (817) 557–3391; email [ghti@ghti.net](mailto:ghti@ghti.net).

Hagglund Helicopters, LLC, 5101 NW A Avenue, Pendleton, OR 97801; telephone (800) 882–3554 or (541) 276–3554; fax (541) 276–1597.

JASPP Engineering Services, LLC., 511 Harmon Terrace, Arlington, TX 76010; telephone (817) 465–4495; or at [www.jaspp.com](http://www.jaspp.com).

Northwest Rotorcraft, LLC, 1000 85th Ave. SE, Olympia, WA 98501; telephone (360) 754–7200; or at [www.nwhelicopters.com](http://www.nwhelicopters.com).

Overseas Aircraft Support, Inc., P.O. Box 898, Lakeside, AZ 85929; telephone (928) 368–6965; fax (928) 368–6962.

Richards Heavylift Helo, Inc., 1181 Osprey Nest Point, Orange Park, FL 32073; (904) 472–1481; email [Glenn7444@msn.com](mailto:Glenn7444@msn.com).

Rotorcraft Development Corporation, P.O. Box 430, Corvallis, MT 59828; telephone (207) 329–2518; email [administration@rotorcraftdevelopment.com](mailto:administration@rotorcraftdevelopment.com).

Southwest Florida Aviation International, Inc., 28000–A9 Airport Road, Bldg. 101, Punta Gorda, FL 33982–9587; telephone (941) 637–1161; fax (941) 637–6264; email [info@swfateam.org](mailto:info@swfateam.org).

Tamarack Helicopters, Inc., 2849 McIntyre Rd., Stevensville, MT 59870; telephone (406) 777–0144; or at [www.tamarackhelicopters.com](http://www.tamarackhelicopters.com).

You may view the service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110. Service information that is incorporated by reference is also available at <https://www.regulations.gov> by searching for and locating Docket No. FAA–2021–0189.

**Examining the AD Docket**

You may examine the AD docket at <https://www.regulations.gov> by searching for and locating Docket No. FAA–2021–0189; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is 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:** Ameet Shrotriya, Aerospace Engineer, Delegation Oversight Section, DSCO Branch, Compliance & Airworthiness Division, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5525; email [ameet.shrotriya@faa.gov](mailto:ameet.shrotriya@faa.gov).

**SUPPLEMENTARY INFORMATION:**

**Background**

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to restricted category Model UH–1H helicopters with KAFlex main driveshaft part number (P/N) SKCP2180–1, SKCP2281–1,