



**[4910-13]**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Parts 13 and 406**

**[Docket No. FAA-2016-7004 Amdt. Nos. 13-38, 406-10]**

**RIN 2120-AK90**

**Revisions to the Civil Penalty Inflation Adjustment Tables; Correction**

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

**ACTION:** Interim final rule; correction.

**SUMMARY:** The FAA is correcting an interim final rule titled “Revisions to the Civil Penalty Inflation Adjustment Tables” that it published in the Federal Register on July 5, 2016. That interim final rule was the catch-up inflation adjustment to civil penalty amounts that may be imposed for violations of Federal Aviation Administration (FAA) regulations, as required by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015. In that document, there were several errors that need to be corrected before the rule becomes effective. This document addresses those errors.

**DATES:** This correction is effective on August 5, 2016.

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**SUPPLEMENTARY INFORMATION:** Prior to the July 5 final rule’s publication, the Pipeline and Hazardous Materials Safety Administration (PHMSA), the Department of

Transportation (DOT) agency primarily responsible for developing and enforcing hazardous materials regulations, published its catch-up adjustments for civil penalties, including those for violations of 49 U.S.C. 5123(a)(3). The FAA is amending its catch-up adjustment for 49 U.S.C. 5123(a)(3) to harmonize it with PHMSA's.

## **Background**

On July 5, 2016, the FAA published an interim final rule titled "Revisions to the Civil Penalty Inflation Adjustment Tables" (81 FR 43463). The intent of that rule is to implement the Federal Civil Penalties Inflation Adjustment Act of 1990 (FCPIAA), Public Law (Pub. L.) 101-410, as amended by the Debt Collection Improvement Act (DCIA) of 1996, Pub. L. 104-134, and the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (2015 Act), Pub. L. 114-74, codified at 28 U.S.C. 2461 note.

The FCPIAA, DCIA, and the 2015 Act require Federal agencies to adjust minimum and maximum civil penalty amounts for inflation to preserve their deterrent impact. The 2015 Act amended the formula and frequency of inflation adjustments. It required an initial catch-up adjustment in the form of an interim final rule, followed by annual adjustments of penalty amounts. The amount of the adjustment must be made using a strict statutory formula that was discussed in the final rule and is corrected as indicated below.

As mentioned above, the FAA's interim final rule was published on July 5, 2016, and included an inflation adjustment for civil penalties associated with hazardous materials training violations under 49 U.S.C. 5123(a)(3). On June 29, 2016, prior to the FAA's civil penalty inflation adjustment publication, the Pipeline and Hazardous Materials Safety Administration (PHMSA), the DOT agency primarily responsible for developing and enforcing hazardous materials regulations, also published its catch-up adjustments for civil

penalties, including those for violations of 49 U.S.C. 5123(a)(3). PHMSA, however, came up with a different adjustment to the minimum penalty for training than the FAA. PHMSA read technical amendments made to section 5123(a)(3) in 2012 to be adjusting the minimum penalty back down from a 2009 PHMSA inflation adjustment. *See Moving Ahead for Progress in the 21st Century Act (MAP-21)*, Pub. L. 112-141, 33010, 126 Stat. 405, 837, (2012); 74 FR 68701 (Dec. 29, 2009). It therefore concluded that 2012 was the year the minimum penalty was established or adjusted. FAA concluded that 2005 was the correct year upon which to base adjustments because Congress established the \$450 minimum that year and did not change it in its 2012 amendments. *Compare Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU)*, Pub. L. 109-59, 7120, 119 Stat. 1144, 1905 (2005) *with* MAP-21, 126 Stat. at 837. Because PHMSA is the primary DOT agency in the area of hazardous materials safety, and because its calculation is reasonable, the FAA is correcting its catch-up adjustment to harmonize it with PHMSA's.

The FAA is also making technical corrections to its interim final rule. First, it is correcting the effective date noted in the table included in 14 CFR 13.301(c), to reflect the correct effective date of August 5, 2016 (not August 1, 2016). Second, the word "established" is replacing the word "set" when used in reference to the "catch-up adjustment" formula provided by the 2015 Act to make the text of the interim final rule consistent with the statutory text of the 2015 Act. Finally, the FAA is correcting the reference to "section 5123" in the hazmat adjustment example for 49 U.S.C. 5123(a)(1), provided in the background section of the interim final rule, to specifically reference section 5123(a)(1).

## Correction

In FR Doc. 2016–7004, beginning on page 43463 in the Federal Register of July 5, 2016, make the following corrections:

1. On page 43464, in the second column, under the heading “Background”, in the second paragraph, correct the seventh line by replacing the word “set” with “established”.

2. On page 43464, in the third column, correct the ninth line from the top by replacing the word “set” with “established”.

3. On page 43464, in the third column, correct subparagraph (1) by replacing the word “set” with “established” in both places it is used, replacing the word “reset” with “adjusted” and replacing the words “Section 5123” with “Section 5123(a)(1)”.

4. On page 43464, correct the heading of the second column of the table by replacing the word “set” with “established”.

5. On page 43464, correct the heading of the third column of the table by replacing the word “set” with “established”.

6. On page 43464, correct the second column of the table by replacing “2005” with “2012” in the third line (referencing 49 U.S.C. Statute 5123(a)(3)).

7. On page 43464, correct the fourth column of the table by replacing “1.19397” with “1.02819” in the third line (referencing 49 U.S.C. Statute 5123(a)(3)).

8. On page 43464, correct the fifth column of the table by replacing “537” with “463” in the third line (referencing 49 U.S.C. Statute 5123(a)(3)).

§ 13.301 [Corrected]

9. On page 43467, correct § 13.301 by revising paragraph (c) to read as follows:

(c) Minimum and maximum civil monetary penalties within the jurisdiction of the FAA are as follows:

**Table of Minimum and Maximum Civil Monetary Penalty Amounts for Certain Violations Occurring on or after August 5, 2016**

<b>United States Code citation</b>	<b>Civil monetary penalty description</b>	<b>Minimum penalty amount</b>	<b>New or adjusted minimum penalty amount</b>	<b>Maximum penalty amount when last established or adjusted by Congress</b>	<b>New or adjusted maximum penalty amount</b>
49 U.S.C. 5123(a), subparagraph (1)	Violation of hazardous materials transportation law	Deleted 7/6/2012	N/A	\$75,000 per violation, adjusted 7/6/2012	\$77,114
49 U.S.C. 5123(a), subparagraph (2)	Violation of hazardous materials transportation law resulting in death, serious illness, severe injury, or substantial property destruction	Deleted 7/6/2012	N/A	\$175,000 per violation, adjusted 7/6/2012	\$179,933
49 U.S.C. 5123(a), subparagraph (3)	Violation of hazardous materials transportation law relating to training	\$450 per violation, adjusted 7/6/2012	\$463	\$75,000 per violation, adjusted 7/6/2012	\$77,114
49 U.S.C. 46301(a)(1)	Violation by a person other than an individual or small business concern under 49 U.S.C. 46301(a)(1)(A) or (B)	N/A	N/A	\$25,000 per violation, established 12/12/2003	\$32,140

<b>United States Code citation</b>	<b>Civil monetary penalty description</b>	<b>Minimum penalty amount</b>	<b>New or adjusted minimum penalty amount</b>	<b>Maximum penalty amount when last established or adjusted by Congress</b>	<b>New or adjusted maximum penalty amount</b>
49 U.S.C. 46301(a)(1)	Violation by an airman serving as an airman under 49 U.S.C. 46301(a)(1)(A) or (B) (but not covered by 46301(a)(5)(A) or (B))	N/A	N/A	\$1,100 per violation, adjusted 12/12/2003	\$1,414
49 U.S.C. 46301(a)(1)	Violation by an individual or small business concern under 49 U.S.C. 46301(a)(1)(A) or (B) (but not covered in 49 U.S.C. 46301(a)(5))	N/A	N/A	\$1,100 per violation, adjusted 12/12/2003	\$1,414
49 U.S.C. 46301(a)(3)	Violation of 49 U.S.C. 47107(b) (or any assurance made under such section) or 49 U.S.C. 47133	N/A	N/A	Increase above otherwise applicable maximum amount not to exceed 3 times the amount of revenues that are used in violation of such section	No change
49 U.S.C. 46301(a)(5)(A)	Violation by an individual or small business concern (except an airman serving as an airman) under 49 U.S.C. 46301(a)(5)(A)(i) or (ii)	N/A	N/A	\$10,000 per violation, established 12/12/2003	\$12,856

<b>United States Code citation</b>	<b>Civil monetary penalty description</b>	<b>Minimum penalty amount</b>	<b>New or adjusted minimum penalty amount</b>	<b>Maximum penalty amount when last established or adjusted by Congress</b>	<b>New or adjusted maximum penalty amount</b>
49 U.S.C. 46301(a)(5)(B) (i)	Violation by an individual or small business concern related to the transportation of hazardous materials	N/A	N/A	\$10,000 per violation, established 12/12/2003	\$12,856
49 U.S.C. 46301(a)(5)(B) (ii)	Violation by an individual or small business concern related to the registration or recordation under 49 U.S.C. chapter 441, of an aircraft not used to provide air transportation	N/A	N/A	\$10,000 per violation, established 12/12/2003	\$12,856
49 U.S.C. 46301(a)(5)(B) (iii)	Violation by an individual or small business concern of 49 U.S.C. 44718(d), relating to limitation on construction or establishment of landfills	N/A	N/A	\$10,000 per violation, established 12/12/2003	\$12,856
49 U.S.C. 46301(a)(5)(B) (iv)	Violation by an individual or small business concern of 49 U.S.C. 44725, relating to the safe disposal of life-limited aircraft parts	N/A	N/A	\$10,000 per violation, established 12/12/2003	\$12,856

<b>United States Code citation</b>	<b>Civil monetary penalty description</b>	<b>Minimum penalty amount</b>	<b>New or adjusted minimum penalty amount</b>	<b>Maximum penalty amount when last established or adjusted by Congress</b>	<b>New or adjusted maximum penalty amount</b>
49 U.S.C. 46301(b)	Tampering with a smoke alarm device	N/A	N/A	\$2,000 per violation, established 12/22/1987	\$4,126
49 U.S.C. 46302	Knowingly providing false information about alleged violation involving the special aircraft jurisdiction of the United States	N/A	N/A	\$10,000 per violation, established 10/12/1984	\$22,587
49 U.S.C. 46318	Interference with cabin or flight crew	N/A	N/A	\$25,000, established 4/5/2000	\$34,172
49 U.S.C. 46319	Permanent closure of an airport without providing sufficient notice	N/A	N/A	\$10,000 per day, established 12/12/2003	\$12,856
49 U.S.C. 47531	Violation of 49 U.S.C. 47528-47530, relating to the prohibition of operating certain aircraft not complying with stage 3 noise levels	N/A	N/A	See 49 U.S.C. 46301(a)(1)(A) and (a)(5), above	No change

Issued under authority provided by 28 U.S.C. 2461 and 49 U.S.C. 106(f), 44701(a), and 46301 in Washington, DC, on July 26, 2016.

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Director, Office of Rulemaking

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