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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.

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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 185

RIN 3206-AN39

Program Fraud Civil Remedies: Civil Monetary Penalty Inflation Adjustment

AGENCY: Office of Personnel Management (OPM).

ACTION: Final rule.

SUMMARY: This rule adjusts the level of civil monetary penalties contained in U.S. Office of Personnel Management regulations implementing the Program Fraud Civil Remedies Act of 1986, in accordance with the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 and Office of Management and Budget guidance.

DATES: *Effective date:* February 27, 2023.

FOR FURTHER INFORMATION CONTACT:

Valerie Dew, Office of the General Counsel, Office of Personnel Management, 1900 E St. NW, Washington, DC 20415, *Valerie.Dew@opm.gov*, (202) 606-1700.

SUPPLEMENTARY INFORMATION:

I. Background

On November 2, 2015, the President signed into law the Federal Civil Penalties Inflation Adjustment Act

Improvements Act of 2015 (sec. 701 of Pub. L. 114-74, 28 U.S.C. 2461 note) (“the Act”). The Act required agencies to: (1) adjust the level of civil monetary penalties with an initial “catch-up” adjustment through an interim final rulemaking, and (2) make subsequent annual adjustments for inflation. The purpose of these adjustments is to maintain the deterrent effect of civil penalties. OPM has updated the agency’s monetary penalties since the passage of the 2015 Act.

This rule takes into account adjustments for the year 2023 based on inflation for that year. These calculations were made based on guidance contained in Office of Management and Budget Memorandum M-23-05:

| CFR citation | Description of the penalty | 2022 Inflation adjustment | 2023 Inflation adjustment |
|---------------------|------------------------------------|---------------------------|---------------------------|
| 5 CFR 185.103(a) | Civil Penalty for False Claims | \$12,537 | \$13,508 |
| 5 CFR 185.103(f)(2) | Civil Penalty for False Statements | 12,537 | 13,508 |

This final rule is being issued without prior public notice or opportunity for public comments. The 2015 Act’s amendments to the Inflation Adjustment Act required the agency to adjust penalties initially through an interim final rulemaking, which did not require the agency to complete a notice and comment process prior to promulgating the interim final rule. The amendments also explicitly required 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). The formula used for adjusting the amount of civil penalties is given by statute, with no discretion provided to OPM regarding the computation of the adjustments. OPM is charged only with performing ministerial computations to determine the amount of adjustment to the civil penalties due to increases in the Consumer Price Index for all Urban Consumers (CPI-U).

II. Calculation of Adjustment

The Office of Management and Budget (OMB) issues guidance annually on calculating adjustments. Under this guidance, OPM has identified

applicable civil monetary penalties and calculated the annual adjustment. A civil monetary penalty is any assessment with a dollar amount that is levied for a violation of a Federal civil statute or regulation, and is assessed or enforceable through a civil action in Federal court or an administrative proceeding. A civil monetary penalty does not include a penalty levied for violation of a criminal statute, or fees for services, licenses, permits, or other regulatory review. The calculated catch-up adjustment is based on the percent change between the Consumer Price Index for all Urban Consumers (CPI-U) for the month of October in the year of the previous adjustment (or in the year of establishment, if no adjustment has been made) and the October 2015 CPI-U.

Office of Management and Budget Memorandum M-23-05 stated that the cost-of-living multiplier for calculating adjustments in 2023 was 1.07745. This multiplier is to be applied to the current level of civil monetary penalties for agencies. When OPM’s 2022 penalties of \$12,537 are multiplied by 1.07745, the resulting penalty amount is \$13,508.

III. Procedural Requirements

A. Executive Orders 13563 and 12866, Regulatory Review

Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. In accordance with the provisions of Executive Order 12866, this rule is not a significant rule as was not reviewed by OMB.

B. 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). The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 requires agencies to adjust civil penalties annually. No discretion is allowed. Thus, the RFA does not apply to this final rule.

C. Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 804(2))

This rule is not a major rule under the Small Business Regulatory Enforcement Fairness Act. This rule:

(a) Does not have an annual effect on the economy of \$100 million or more.

(b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

(c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises.

D. Unfunded Mandate Reform Act of 1995 (2 U.S.C. 1532)

This rule does not involve a Federal mandate that may result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$100 million or more and that such rulemaking will not significantly or uniquely affect small governments.

E. E.O. 12630, Takings

This rule does not have takings implications.

F. E.O. 13132, Federalism

This rule does not have federalism implications. The rule does not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government.

G. E.O. 12988, Civil Justice Reform

This rule complies with the requirements of E.O. 12988. Specifically, this rule:

(a) Does not unduly burden the judicial system.

(b) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(c) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

H. E.O. 13175, Consultation With Indian Tribes

In accordance with Executive Order 13175, OPM has evaluated this rule and determined that it has no tribal implications.

I. Paperwork Reduction Act

This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13.

List of Subjects in 5 CFR Part 185

Basis for civil penalties and assessments, Claims, Penalties, Program fraud civil remedies.

Office of Personnel Management.

Stephen Hickman,

Federal Register Liaison.

For the reasons set forth in the preamble, amend part 185 of title 5 of the Code of Federal Regulations as follows:

PART 185—PROGRAM FRAUD CIVIL REMEDIES

■ 1. The authority citation for part 185 continues to read:

Authority: 28 U.S.C. 2461 note; 31 U.S.C. 3801–3812.

§ 185.103 [Amended]

■ 2. In § 185.103, amend paragraphs (a) introductory text and (f)(2) by removing “\$12,537” and adding “\$13,508” in its place.

[FR Doc. 2023–01612 Filed 1–26–23; 8:45 am]

BILLING CODE 6325–48–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2023–0024; Project Identifier AD–2022–01492–A; Amendment 39–22311; AD 2023–02–04]

RIN 2120–AA64

Airworthiness Directives; Mooney International Corporation Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Mooney International Corporation Model M20C, M20D, M20E, M20F, and M20G airplanes. This AD was prompted by reports of the hybrid material

elevator balance weight cracking. This AD requires inspecting to determine whether a certain elevator balance weight is installed. If installed, this AD requires inspecting each affected elevator balance weight for corrosion and cracking, and depending on the findings, either replacing each affected elevator balance weight with a non-hybrid (lead) elevator balance weight or repetitively inspecting each affected elevator balance weight. This AD also prohibits the installation of an affected elevator balance weight on any airplane. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective February 13, 2023.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of February 13, 2023.

The FAA must receive comments on this AD by March 13, 2023.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *regulations.gov*. Follow the instructions for submitting comments.

- *Fax:* (202) 493–2251.

- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

AD Docket: You may examine the AD docket at *regulations.gov* by searching for and locating Docket No. FAA–2023–0024; 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 street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For service information identified in this final rule, contact Mooney International Corporation, 165 Al Mooney Road North, Kerrville, TX 78028; phone: (800) 456–3033; email: *support@mooney.com*; website: *mooney.com*.

- You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (817) 222–5110. It is also available at *regulations.gov* by searching for and locating Docket No. FAA–2023–0024.