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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 922

[Doc. No. AMS-FV-10-0062; FV06-922-2 C]

Apricots Grown in Designated Counties in Washington; Temporary Relaxation of the Minimum Grade Requirement; Correction

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Correcting amendment.

SUMMARY: The Agricultural Marketing Service (AMS) is making a correction to the Code of Federal Regulations (CFR) by revising the administrative rules and regulations contained in part 922, Apricots Grown in Designated Counties in Washington. In an interim final rule published in the **Federal Register** on August 2, 2006 (71 FR 43641), and adopted as a final rule on November 13, 2006 (71 FR 66093), changes were made to section 922.321(a)(1) to relax the minimum grade requirements for Washington apricots for the 2006 season. The changes were in effect from August 3, 2006, through March 31, 2007. After the effective dates for the changes, the text of an entire paragraph was inadvertently omitted, by AMS, from subsequent issues of the Code of Federal Regulations (CFR) and the section was reserved. AMS did not intend for the entire paragraph to be removed. This document corrects that error by adding or reinserting the language that was omitted into Title 7 of the CFR, part 922.

DATES: *Effective Date:* November 30, 2010.

FOR FURTHER INFORMATION CONTACT:

Robert J. Curry or Gary D. Olson, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs,

AMS, USDA; Telephone: (503) 326-2724, Fax: (503) 326-7440, or E-mail: Robert.Curry@ams.usda.gov or GaryD.Olson@ams.usda.gov.

Small businesses may request information on complying with this regulation by contacting Antoinette Carter, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250-0237; Telephone: (202) 720-2491, Fax: (202) 720-8938, or E-mail: Antoinette.Carter@ams.usda.gov.

SUPPLEMENTARY INFORMATION: This document provides a correcting amendment to Marketing Order 922, found at 7 CFR part 922, so that handlers of fresh apricots from Washington shall continue to adhere to the minimum grade requirements (Washington No. 1) of the Order.

List of Subjects in 7 CFR Part 922

Apricots, Marketing Agreements, Reporting and recordkeeping requirements.

■ Accordingly, 7 CFR part 922 is corrected by making the following correcting amendment:

■ 1. The authority citation for 7 CFR part 922 continues to read as follows:

Authority: 7 U.S.C. 601-674.

PART 922—APRICOTS GROWN IN DESIGNATED COUNTIES IN WASHINGTON

■ 2. In § 922.321, add paragraph (a)(1) to read as follows:

§ 922.321 Apricot Regulation 21.

(a) * * *

(1) *Minimum grade and maturity requirements.* Such apricots that grade not less than Washington No. 1 and are at least reasonably uniform in color: *Provided*, That such apricots of the Moorpark variety in open containers shall be generally well matured.

* * * * *

Dated: November 10, 2010.

David R. Shipman,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. C1-2010-29105 Filed 11-26-10; 8:45 am]

BILLING CODE 3410-02-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 13

[Docket No. FAA-2009-0237; Amendment No. 13-35]

RIN 2120-AJ50

Revisions to the Civil Penalty Inflation Adjustment Tables

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This final rule adjusts for inflation the minimum and maximum civil monetary penalty amounts the FAA may impose for violations of the statutes and regulations it enforces in order to continue the deterrent effect of these penalties. The adjustments are made following a formula provided by Congress.

DATES: This amendment becomes effective December 29, 2010.

FOR FURTHER INFORMATION CONTACT: Cole Milliard, Office of the Chief Counsel, Enforcement Division, AGC-300, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591. Telephone (202) 267-3452. Facsimile (202) 267-5106. E-mail cole.milliard@faa.gov.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules on aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is issued under the Federal Civil Penalties Inflation Adjustment Act of 1990, Public Law (Pub. L.) 101-410, as amended by the Debt Collection Improvement Act of 1996, Public Law 104-134, codified at 28 U.S.C. 2461 note. These laws authorize the FAA to adjust the minimum and maximum amounts of civil monetary penalties for violations of the statutes it enforces to preserve their deterrent effect.

Good Cause for Immediate Adoption of This Final Rule

The FAA finds that good cause exists under 5 U.S.C. 553(b)(B) for adopting

this final rule without notice and comment. This rule effectuates the intent of the Federal Civil Penalties Inflation Adjustment Act to allow for regular adjustment, for inflation, of civil monetary penalties to preserve the deterrent effect of civil monetary penalties and promote compliance with the law. The inflation adjustments to penalties under this rule apply a formula mandated by Congress. Thus, it is unnecessary to delay these adjustments to receive public comment. Such comments would not allow the FAA to develop any basis to change the method or application of the mandatory inflation adjustments.

Discussion

Background

Under the Debt Collection Improvement Act of 1996, the FAA must adjust all applicable civil monetary penalties at least once every 4 years. In doing so, the FAA must also apply a formula Congress included in the Debt Collection Improvement Act of 1996 to determine the amount of increase to each of its civil monetary penalties. Both of these requirements are included in 28 U.S.C. 2461 note.

Prior FAA Rulemakings

In 1996 (61 FR 67445; December 20, 1996), we added subpart H, Civil

Monetary Penalty Inflation Adjustment, to 14 CFR part 13. Subpart H implements the terms of 28 U.S.C. 2461 note. We also made our initial adjustment to the civil monetary penalties applicable to the FAA's enforcement program in that rulemaking. The current rulemaking is the FAA's third adjustment of its civil monetary penalties since the regulation was adopted. Previous adjustments were made in 2002 (Amendment No. 13–31; 67 FR 6364; February 11, 2002) and 2006 (Amendment No. 13–33; 71 FR 47 28518; May 16, 2006). The 2006 adjustment also incorporated in Subpart H several statutory changes to our authority to impose civil penalties.

This Rulemaking

In this rulemaking, we adjust the civil penalty amounts listed in Tables 2 and 3 of 14 CFR part 13, subpart H, for inflation in accordance with the formula set forth in Subpart H. Under subpart H, we determine the inflation adjustment for each applicable civil penalty by increasing the maximum civil penalty or the range of minimum and maximum civil penalties by the “cost-of-living adjustment” (COLA). The COLA is “the percentage (if any) for each civil monetary penalty 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 calendar year in which the amount of such civil penalty was last set or adjusted pursuant to law.” Each increase is rounded off as described in 14 CFR 13.305(a) and the rounded-off increase is added to the existing civil penalty amount. For the initial adjustment of a civil penalty under Subpart H, the increase is limited to ten percent of the civil penalty amount, as stated in 14 CFR 13.305(c).

For this rulemaking, we looked at the increase of the CPI for June 2009 over the CPIs for the years in which each civil penalty amount was last set, reset, or adjusted. The words “set” and “reset” in this context indicate that Congress has added to or changed the FAA's statutory authority to impose civil monetary penalties. The word “adjusted” indicates a change we made under Subpart H.

Civil Penalty Inflation Adjustment

Relevant CPI's

The CPI for June 2009 was 215.693. The CPI for the month of June of the calendar years in which civil monetary penalty amounts were last set, reset, or adjusted are:

- (1) 160.3 for June 1997;
- (2) 183.7 for June 2003;
- (3) 194.5 for June 2005; and
- (4) 202.9 for June 2006.

COLAs

Year	COLA calculation	COLA amount
1997	215.693/160.3	1.346 (134.6%)
2003	215.693/183.7	1.174 (117.4%)
2005	215.693/194.5	1.109 (110.9%)
2006	215.693/202.9	1.063 (106.3%)

Round-off Formula

- (1) Multiple of \$10, in the case of penalties less than or equal to \$100;
- (2) Multiple of \$100, in the case of penalties greater than \$100 but less than or equal to \$1,000;
- (3) Multiple of \$1,000, in the case of penalties greater than \$1,000 but less than or equal to \$10,000;
- (4) Multiple of \$5,000, in the case of penalties greater than \$10,000 but less than \$100,000;
- (5) Multiple of \$10,000, in the case of penalties greater than \$100,000 but less than or equal to \$200,000;
- (6) Multiple of \$25,000, in the case of penalties greater than \$200,000.

Results of Calculations for Inflation Adjustment

Using the methodology outlined in 28 U.S.C. 2461 note and implemented in 14

CFR part 13 subpart H, we have determined that several of our civil monetary penalties should be adjusted. The adjusted civil monetary penalty amounts are set forth in “Table of Minimum and Maximum Civil Monetary Penalty Amounts for Certain Violations Occurring on or After December 29, 2010”, which will be located in 14 CFR 13.305(d).

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. The FAA has determined that there is no new requirement for information collection associated with this final rule.

International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to conform to International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA has determined that there are no ICAO Standards and Recommended Practices that correspond to these regulations.

Regulatory Notices and Analyses

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency must propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) requires

agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (Pub. L. 96–39) forbids agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, this Trade Act requires agencies to consider international standards and, where appropriate, that they be the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or Tribal governments, in the aggregate, or by the private sector, of \$100 million or more annually (adjusted for inflation with base year of 1995). This portion of the preamble summarizes the FAA's analysis of the economic impacts of this final rule.

Department of Transportation Order DOT 2100.5 prescribes policies and procedures for simplification, analysis, and review of regulations. If the expected cost impact is so minimal that a proposed or final rule does not warrant a full evaluation, this order permits that a statement to that effect and the basis for it is included in the preamble if a full regulatory evaluation of the cost and benefits is not prepared. Such a determination has been made for this final rule. The reasoning for this determination follows:

This final rule simply identifies the civil monetary penalties for violations of the statutory and regulatory provisions we enforce. The penalty amounts are those specified by statute or called for under the inflation adjustment statutes, and the information in this rule is required by the Debt Collection Improvement Act of 1996. Its economic impact is minimal.

Also, we determined that this final rule is not a “significant regulatory action” as defined in section 3(f) of Executive Order 12866, and is not “significant” as defined in DOT's Regulatory Policies and Procedures.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (Pub. L. 96–354) (RFA) establishes “as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation. To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals

and to explain the rationale for their actions to assure that such proposals are given serious consideration.” The RFA covers a wide-range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a rule will have a significant economic impact on a substantial number of small entities. If the agency determines that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA.

However, if an agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

This final rule simply identifies the civil monetary penalties for violations of the statutory and regulatory provisions we enforce. The penalty amounts are those specified by statute or called for under the inflation adjustment statutes, and the information in this rule is required by the Debt Collection Improvement Act of 1996. Its economic impact is minimal.

Therefore, as the FAA Administrator, I certify that this rule will not have a significant economic impact on a substantial number of small entities.

International Trade Impact Assessment

The Trade Agreements Act of 1979 (Pub. L. 96–39), as amended by the Uruguay Round Agreements Act (Pub. L. 103–465), prohibits Federal agencies from establishing any standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Pursuant to these Acts, the establishment of standards is not considered an unnecessary obstacle to the foreign commerce of the United States, so long as the standards have a legitimate domestic objective, such as the protection of safety, and do not operate in a manner that excludes imports that meet this objective. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards.

This rule only summarizes civil monetary penalties, established by legislation, for violations of statutory and regulatory provisions that apply equally to domestic and foreign entities; therefore, we have determined that this

rule will not result in an impact on international trade by companies doing business in or with the United States.

Unfunded Mandates Reform Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of \$100 million or more (adjusted annually for inflation with the base year 1995) in any one year by State, local, and Tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a “significant regulatory action.” The level equivalent of \$100 million in CY 1995, adjusted for inflation to CY 2007 levels by the Consumer Price Index for all Urban Consumers (CPI-U) as published by the Bureau of Labor Statistics, is \$143.1 million.

This final rule does not contain such a mandate since it only identifies the increase in penalties as required by the Debt Collection Improvement Act of 1996. Therefore, the requirements of Title II of the Act do not apply.

Executive Order 13132, Federalism

The FAA has analyzed this final rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action will not have a substantial direct effect on the States, or the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, the FAA has determined that this final rule does not have federalism implications.

Environmental Analysis

FAA Order 1050.1E identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act in the absence of extraordinary circumstances. The FAA has determined this rulemaking action qualifies for the categorical exclusion and involves no extraordinary circumstances.

Regulations That Significantly Affect Energy Supply, Distribution, or Use

The FAA analyzed this final rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use (May 18, 2001). The agency has determined that it is not a “significant energy action” under the executive order and it is not likely to

have a significant adverse effect on the supply, distribution, or use of energy.

Availability of Rulemaking Documents

You can get an electronic copy using the Internet by:

(1) Searching the Federal eRulemaking Portal at <http://www.regulations.gov>;

(2) Visiting the FAA's Regulations and Policies Web page at http://www.faa.gov/regulations_policies/; or

(3) Accessing the Government Printing Office's Web page at <http://www.gpoaccess.gov/fr/index.html>.

You can also get a copy by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM-1, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-9680. Make sure to identify the amendment number or docket number of this rulemaking.

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association,

business, labor union, etc.). You may review DOT's complete Privacy Act statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78) or you may visit <http://www.regulations.gov>.

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. If you are a small entity and you have a question regarding this document, you may contact your local FAA official, or the person listed under the **FOR FURTHER INFORMATION CONTACT** heading at the beginning of the preamble. You can find out more about SBREFA on the Internet at http://www.faa.gov/regulations_policies/rulemaking/sbre_act/.

List of Subjects in CFR 14 Part 13

Administrative practice and procedure, Air transportation,

Hazardous materials transportation, Investigations, Law enforcement, Penalties.

The Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends Chapter I of title 14, Code of Federal Regulations as follows:

PART 13—INVESTIGATIVE AND ENFORCEMENT PROCEDURES

■ 1. The authority citation for part 13 continues to read as follows:

Authority: 18 U.S.C. 6002, 28 U.S.C. 2461 (note); 49 U.S.C. 106(g), 5121-5124, 40113-40114, 44103-44106, 44702-44703, 44709-44710, 44713, 44718, 44725, 46101-46110, 46301-46316, 46318, 46501-46502, 46504-46507, 47106, 47111, 47122, 47306, 47531-47532.

■ 2. Amend § 13.305(d) by removing Tables 1 through 3 and adding a new table in their place to read as follows:

§ 13.305 Cost of living adjustments of civil monetary penalties.

* * * * *
(d) * * *

TABLE OF MINIMUM AND MAXIMUM CIVIL MONETARY PENALTY AMOUNTS FOR CERTAIN VIOLATIONS OCCURRING ON OR AFTER DECEMBER 29, 2010

United States Code cite	Civil monetary penalty description	Minimum penalty amount	New or adjusted minimum penalty amount	Maximum penalty amount when last set or adjusted pursuant to law	New or adjusted maximum penalty amount
49 U.S.C. 5123(a), subparagraph (1).	Violation of hazardous materials transportation law.	\$250 per violation, reset 8/10/2005.	No change	\$50,000 per violation, reset 8/10/2005.	\$55,000 per violation.
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.	\$250 per violation, reset 8/10/2005.	No change	\$100,000 per violation, set 8/10/2005.	\$110,000 per violation.
49 U.S.C. 5123(a), subparagraph (3).	Violation of hazardous materials transportation law relating to training.	\$450 per violation, set 8/10/2005.	No change	\$50,000 per violation, set 8/10/2005.	\$55,000 per violation.
49 U.S.C. 46301(a)(1)	Violation by a person other than an individual or small business concern under 49 CFR 46301(a)(1)(A) or (B).	N/A	N/A	\$25,000 per violation, reset 12/12/2003.	\$27,500 per violation.
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, reset 12/12/2003.	No change.
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, reset 12/12/2003.	No change.
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.

TABLE OF MINIMUM AND MAXIMUM CIVIL MONETARY PENALTY AMOUNTS FOR CERTAIN VIOLATIONS OCCURRING ON OR AFTER DECEMBER 29, 2010—Continued

United States Code cite	Civil monetary penalty description	Minimum penalty amount	New or adjusted minimum penalty amount	Maximum penalty amount when last set or adjusted pursuant to law	New or adjusted maximum penalty amount
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	\$11,000 per violation, adjusted 6/15/2006.	No change.
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	\$11,000 per violation, adjusted 6/15/2006.	No change.
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	\$11,000 per violation, adjusted 6/16/2006.	No change.
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	\$11,000 per violation, adjusted 6/15/2006.	No change.
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	\$11,000 per violation, adjusted 6/15/2006.	No change.
49 U.S.C. 46301(b)	Tampering with a smoke alarm device.	N/A	N/A	\$2,200 per violation, adjusted 1/21/1997.	\$3,200 per violation.
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	\$11,000 per violation, adjusted 1/21/1997.	\$16,000 per violation.
49 U.S.C. 46318	Interference with cabin or flight crew.	N/A	N/A	\$27,500, adjusted 6/15/2006.	No change.
49 U.S.C. 46319	Permanent closure of an airport without providing sufficient notice.	N/A	N/A	\$11,000 per day, adjusted 6/15/2006.	No change.
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 in Washington, DC on November 22, 2010.

J. Randolph Babbitt,
Administrator.

[FR Doc. 2010–29920 Filed 11–26–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2010–0719; Aerospace
Docket No. 10–ANM–8]

Modification of Class E Airspace; Portland, OR

AGENCY: Federal Aviation
Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action will modify existing Class E airspace at Portland, OR, to accommodate aircraft using the Localizer/Distance Measuring Equipment (LOC/DME) Standard

Instrument Approach Procedures (SIAPs) at Portland International Airport. This will improve the safety and management of Instrument Flight Rules (IFR) operations at the airport. This action also would adjust the geographic coordinates for the airports and the Corvallis VHF Omni-Directional Radio Range/Distance Measuring Equipment (VOR/DME).

DATES: Effective date, 0901 UTC, March 10, 2011. The Director of the Federal Register approves this incorporation by reference action under 1 CFR Part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT:
Eldon Taylor, Federal Aviation