

entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.<sup>19</sup>

16. The modification of the provisions for implementing the DTV tuner requirement in TV receivers with screen sizes in the 25–36" mid-size range set forth herein are intended to ameliorate certain market difficulties described by consumer electronics manufacturers and consumer electronics products retailers and to expedite the availability of DTV tuners in new mid-size television receivers that are offered to consumers. The revisions adopted preserve the requirement for DTV tuners in 50 percent of the new mid-size range of receivers for the period July 1, 2005, to February 28, 2005, in order to ensure that such receivers are available as soon as possible and particularly during the 2005 holiday season and 2006 Super Bowl season. The consumer electronics industry has indicated that it prefers the 100 percent requirement to become effective on March 1, 2006, rather than the original July 1, 2006, date. Advancing the date for 100 percent compliance by mid-size receivers will ameliorate the challenges of the 50 percent provision for manufacturers and retailers and will also serve to promote the availability of DTV tuner equipped TV sets to consumers.

17. Other approaches considered included various suggestions by broadcasters and others to advance the deadline for DTV tuners in 25–36" sets to dates between November 1, 2005, and January 1, 2005. We rejected the options to advance the 100 percent requirement to a date earlier than March 1, 2006, on the basis that the 5 to 6 month lead-times available to manufacturers under those scenarios would be too short for manufacturers to meet with new products, especially given the lead-times associated with obtaining parts and components from suppliers. Extending the deadline beyond March 1, 2006, would be inconsistent with the need to expedite the DTV transition.

Report to Congress

18. The Commission will send a copy of the Report and Order, including this FRFA, in a report to Congress pursuant to the Congressional Review Act.<sup>20</sup> In addition, the Commission will send a copy of the Report and Order, including

the FRFA, to the Chief Counsel for Advocacy of the SBA.<sup>21</sup>

#### Ordering Clauses

19. Pursuant to the authority contained in sections 2(a), 4(i) & (j), 7, 151 and 303 of the Communications Act of 1934 as amended, 47 U.S.C. 152(a), 154(i) & (j), 151, 157, and 303, this Report and Order *is adopted* and the Commission's rules *are hereby amended* as set forth in Rule Changes, and shall become effective August 5, 2005.

20. The Petition for Rulemaking submitted by the Consumer Electronics Association and the Consumer Electronics Retailers Association in this matter on November 5, 2004, *is denied* in part and *is granted* in part as indicated in the Report and Order.

21. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration,<sup>22</sup> to Congress and the General Accounting Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

#### List of Subjects in 47 CFR Part 15

Communications equipment, Radio.

Federal Communications Commission.

Marlene H. Dortch,  
Secretary.

#### Rule Changes

■ For the reasons set forth in the preamble, the Federal Communications Commission amends 47 CFR part 15 as follows:

#### PART 15—RADIO FREQUENCY DEVICES

■ 1. The authority citation for part 15 continues to read as follows:

**Authority:** 47 U.S.C. 154, 302, 303, 304, 307, and 554A.

■ 2. Section 15.117 is amended by revising paragraph (i)(1) to read as follows:

#### § 15.117 TV broadcast receivers.

\* \* \* \* \*

(i) \* \* \*

(1) Responsible parties, as defined in § 2.909 of this chapter, are required to equip new TV broadcast receivers that are shipped in interstate commerce or imported from any foreign country into the United States and for which they are responsible to comply with the provisions of this section in accordance with the following schedule:

(i) Receivers with screen sizes 36" and above—50% of all of a responsible party's units must include DTV tuners effective July 1, 2004; 100% of such units must include DTV tuners effective July 1, 2005.

(ii) Receivers with screen sizes 25" to less than 36"—50% of all of a responsible party's units must include DTV tuners effective July 1, 2005; 100% of such units must include DTV tuners effective March 1, 2006.

(iii) Receivers with screen sizes 13" to less than 25"—100% of all such units must include DTV tuners effective July 1, 2007.

(iv) Other devices (videocassette recorders (VCRs), digital video disk and digital versatile disk (DVD) players/recorders, etc.) that receive television signals—100% of all such units must include DTV tuners effective July 1, 2007.

\* \* \* \* \*

[FR Doc. 05–13027 Filed 7–5–05; 8:45 am]

BILLING CODE 6712–01–P

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

**49 CFR Parts 209, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 225, 228, 229, 230, 231, 232, 233, 234, 235, 236, 238, 239, 240, 241, and 244**

[Docket No. FRA–2004–17529; Notice No. 4]

RIN 2130–AB66

### Inflation Adjustment of the Ordinary Maximum Civil Monetary Penalty for a Violation of a Federal Railroad Safety Law or Federal Railroad Administration Safety Regulation

**AGENCY:** Federal Railroad Administration (FRA), Department of Transportation (DOT).

**ACTION:** Final rule; withdrawal.

**SUMMARY:** FRA is withdrawing its final rule that adjusted from \$11,000 to \$15,000 the ordinary maximum civil penalty that applies when a civil penalty for a violation of railroad safety statutes and regulations is assessed under its authority, due to an error in the application of the rounding rules found in the applicable statute. The ordinary maximum civil penalty will remain at \$11,000.

**DATES:** The final rule published on June 8, 2005, at 70 FR 33380 is withdrawn in its entirety as of July 6, 2005.

**FOR FURTHER INFORMATION CONTACT:** Carolina Mirabal, Trial Attorney, Office

<sup>19</sup> 5 U.S.C. 603.

<sup>20</sup> *See* 5 U.S.C. 801(a)(1)(A).

<sup>21</sup> *See* 5 U.S.C. 604(b).

<sup>22</sup> *See* 5 U.S.C. 603(a).

of Chief Counsel, FRA, 1120 Vermont Avenue, NW., Mail Stop 10, Washington, DC 20590 (telephone 202-493-6043), [carolina.mirabal@fra.dot.gov](mailto:carolina.mirabal@fra.dot.gov).

**SUPPLEMENTARY INFORMATION:** The Federal Civil Penalties Inflation Adjustment Act of 1990 (Inflation Act) requires that an agency adjust by regulation each maximum civil monetary penalty (CMP), or range of minimum and maximum CMPs, within that agency's jurisdiction by October 23, 1996 and to adjust those penalty amounts once every four years thereafter to reflect inflation. Public Law 101-410, 104 Stat. 890, as amended by Section 31001(s) of the Debt Collection Improvement Act of 1996, Public Law 104-134, 110 Stat. 1321-373, April 26, 1996, 28 U.S.C. 2461, note. Congress recognized the important role that CMPs play in deterring violations of Federal law and regulations and realized that inflation has diminished the impact of these penalties. In the Inflation Act, Congress found a way to counter the effect that inflation has had on the CMPs by having the agencies charged with enforcement responsibility administratively adjust the CMPs.

#### Calculation of the Adjustment

Under the Inflation Act, the inflation adjustment is calculated by increasing the maximum CMP, or the range of minimum and maximum CMPs, by the percentage that the Consumer Price Index (CPI) for the month of June of the calendar year preceding the adjustment (here, June 2004) exceeds the CPI for the month of June of the last calendar year in which the amount of such penalty was last set or adjusted (here, June 1998 for the ordinary maximum). Section 5(a) of the Inflation Act also specifies that the amount of the adjustment must be rounded to the nearest multiple of \$100 for a penalty between \$100 and \$1,000, or to the nearest multiple of \$5,000 for a penalty of more than \$10,000 and less than or equal to \$100,000. The first adjustment may not exceed an increase of ten percent. FRA utilized Bureau of Labor Statistics data to calculate adjusted CMP amounts.

FRA is authorized as the delegate of the Secretary of Transportation to enforce the Federal railroad safety statutes and regulations, including the civil penalty provisions at 49 U.S.C. ch. 213. 49 CFR 1.49; 49 U.S.C. ch. 201-213. FRA currently has 27 regulations that contain provisions that reference its authority to impose civil penalties if a person violates any requirement in the pertinent portion of a statute or the Code of Federal Regulations. In this

final rule, FRA is retracting its June 8, 2005 amendments to each of those separate regulatory provisions and the corresponding footnotes in each Schedule of Civil Penalties that raised the ordinary maximum CMP from \$11,000 to \$15,000. The ordinary maximum CMP should remain at \$11,000, as shown below:

The June 2004 CPI of 568.2 divided by the June 1998 CPI of 488.2 equals an inflation factor of 1.164; \$11,000 multiplied by 1.164 equals \$12,804, or an increase of \$1,804. The increase of \$1,804 is then rounded to the nearest multiple of \$5,000, which in this case is \$0. Thus, the ordinary maximum will remain at \$11,000. In the final rule, 70 FR 33380, FRA erroneously rounded to the nearest multiple of \$5,000 the amount of \$12,804, instead of the increased amount (\$1,804) as required by the Inflation Act.

**List of Subjects in 49 CFR Parts 209, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 225, 228, 229, 230, 231, 232, 233, 234, 235, 236, 238, 239, 240, 241, and 244**

Penalties, Railroad safety.

#### The Final Rule

In consideration of the foregoing, the final rule published on June 8, 2005 at 70 FR 33380 is hereby withdrawn.

Issued in Washington, DC on June 28, 2005.

**Joseph H. Boardman,**  
*Administrator, Federal Railroad Administration.*

[FR Doc. 05-13185 Filed 7-5-05; 8:45 am]

**BILLING CODE 4910-06-P**

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

#### 49 CFR Parts 573 and 577

[Docket No. NHTSA-2004-18341; Notice No. 2]

**RIN 2127-AJ48**

#### Defect and Noncompliance Responsibility and Reports Defect and Noncompliance Notification

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

**ACTION:** Final Rule; Response to Petitions for Reconsideration.

**SUMMARY:** This document responds to petitions for reconsideration of the June 23, 2004 dealer notification rule that amended several provisions of agency

regulations on notifications by manufacturers of motor vehicles and motor vehicle equipment to dealers and distributors when they or NHTSA decide that vehicles or equipment contain a defect related to motor vehicle safety or do not comply with a Federal motor vehicle safety standard.

**DATES:** The amendments in this rule are effective on August 5, 2005.

**Petitions:** Petitions for reconsideration must be received by August 22, 2005 and should refer to this docket and the notice number of this document and be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** For non-legal issues, you may contact Mr. George Person, Office of Defects Investigation, Room 5319, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590; Telephone: (202) 366-5210. For legal issues, you may contact Michael Goode, Office of Chief Counsel, Telephone: (202) 366-5263.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On September 27, 1993, NHTSA published a Notice of Proposed Rulemaking (NPRM) proposing several amendments to its regulations (49 CFR parts 573 and 577) concerning manufacturers' obligations to provide notification and remedy for motor vehicles and items of motor vehicle equipment found to contain a defect related to motor vehicle safety or a noncompliance with a Federal motor vehicle safety standard (58 FR 50314). On April 5, 1995, we issued a final rule (60 FR 17254) addressing most aspects of that NPRM, and on January 4, 1996, we amended several provisions of that final rule in response to petitions for reconsideration of that rule (61 FR 274). However, the agency did not promulgate regulations on dealer notification in the 1995 or 1996 rulemakings because we had not resolved the issues raised by the comments submitted in response to the NPRM.

In the NPRM, we proposed to require manufacturers to notify their dealers and distributors<sup>1</sup> of safety-related

<sup>1</sup> 49 U.S.C. 30118, 30119, and 30120 refer to notification to "dealers," without referring to "distributors." However, under 49 U.S.C. 30116, manufacturers of motor vehicles and motor vehicle equipment have certain responsibilities toward their distributors after it is determined that a product contains a safety-related defect or a noncompliance. Therefore, the notification requirements apply to both dealers and distributors. However, throughout the remainder of this