

and Order, MM Docket No. 98-211, adopted June 23, 1999, and released July 2, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857-3800, facsimile (202) 857-3805.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Wyoming, is amended by adding Channel 252C2 at Evanston.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99-17872 Filed 7-13-99; 8:45 am]

BILLING CODE 6712-01

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98-125; RM-9301]

Radio Broadcasting Services; Lufkin, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 230A to Lufkin, Texas, in response to a petition filed by Russell L. Lindley. See 63 FR 39804, July 24, 1998. The coordinates for Channel 230A at Lufkin, Texas, are 31-20-48 NL and 94-43-30 WL. With this action, this proceeding is terminated. A filing window for Channel 230A at Lufkin, Texas, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

EFFECTIVE DATE: August 16, 1999

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 98-125, adopted June 23, 1999, and released July 2, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857-3800, facsimile (202) 857-3805.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Channel 230A at Lufkin.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99-17868 Filed 7-13-99; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 578

[Docket No. NHTSA 99-5448; Notice 2]

RIN 2127-AH48

Civil Penalties

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: This document adjusts certain civil penalties authorized for violations of statutes that we enforce. The Federal Civil Monetary Penalty Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, requires us to take this action periodically. The largest adjustments occur in penalties for related series of violations of 49 U.S.C. Chapter 301—Motor Vehicle Safety, and 49 U.S.C. Chapter 325—Bumper Standards. The

maximum penalties for violations of Chapters 301 and 325 are increased from \$880,000 to \$925,000 according to the formulae set forth in the statute. Adjustments in two other penalties are made as well.

DATES: *Effective Date:* August 13, 1999.

Applicability Date: These adjusted penalties apply to violations occurring on or after August 13, 1999.

FOR FURTHER INFORMATION CONTACT: Taylor Vinson, Office of Chief Counsel, NHTSA, telephone (202) 366-5263, facsimile (202) 366-3820, electronic mail "TVinson@nhtsa.dot.gov", 400 Seventh Street, SW, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Background

In order to preserve the remedial impact of civil penalties and to foster compliance with the law, the Federal Civil Monetary Penalty Inflation Adjustment Act of 1990 ("Adjustment Act"), 28 U.S.C. Sec. 2461 note, Pub. L. 101-410, as amended by the Debt Collection Improvement Act of 1996 ("Collection Act," Pub. L. 104-134), requires us and other Federal agencies to regularly adjust certain civil penalties for inflation. Under these laws, each agency must make an initial inflationary adjustment for all applicable civil penalties, and must make further adjustments of these penalty amounts at least once every four years. The Collection Act limited the initial increase to 10 percent of the penalty being adjusted.

Our initial adjustment of civil penalties under these legislative authorities was published on February 4, 1997 (62 FR 5167). We established 49 CFR Part 578, *Civil Penalties*, which applies to violations that occur on and after March 6, 1997. These adjustments resulted in the maximum permissible increases of 10 percent. For example, the maximum penalty of \$1,000 for each violation of 49 U.S.C. Sec. 30112(a), up to \$800,000 for a related series of violations, was adjusted to \$1,100 and \$880,000.

In accordance with the mandate to make further adjustments of civil penalty amounts at least once every four years, on April 6, 1999, we proposed to adjust some of our penalties now in order to enhance their deterrent effect (64 FR 16690). We received no comments on this proposal.

Method of Calculation

Under the Adjustment Act as amended by the Collection Act, we determine the inflation adjustment for each applicable civil penalty by

increasing the maximum civil penalty amount per violation by the cost-of-living adjustment, and then applying a rounding factor. Sec. 5(b) of the Adjustment Act defines the "cost-of-living" adjustment as: "the percentage (if any) for each civil monetary penalty by which—

(1) the Consumer Price Index for the month of June of the calendar year preceding the adjustment exceeds

(2) the Consumer Price Index for the month of June of the calendar year in which the amount of such civil monetary penalty was last set or adjusted pursuant to law."

Since the current adjustment is effective before July 1, 1999, the "Consumer Price Index [CPI] for the month of June of the calendar year preceding the adjustment" is the CPI for June 1998. This figure is 488.2.

NHTSA's penalties were initially adjusted based on the CPI figure for June 1996. Because the intent of the legislation is for agencies to adjust their civil penalties to account for increases in inflation in order to preserve their remedial impact, we believe that this is realized by adjusting civil penalties according to the CPI base upon "which the amount of such civil monetary penalty was last set or adjusted pursuant to law." This base was the CPI for June 1996. This was 469.5. The factor that we are using in calculating the increase, then, is 488.2 divided by 469.5, or 1.0398296. Any calculated increase under this adjustment is then subject to a specific rounding formula set forth in Sec. 5(a) of the Adjustment Act. Under the formula:

Any increase shall be rounded to the nearest

- (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 or equal to \$100,000;
- (5) multiple of \$10,000 in the case of penalties greater than \$100,000 but less than or equal to \$200,000; and
- (6) multiple of \$25,000 in the case of penalties greater than \$200,000.

Penalties That We are Increasing

Upon review, we concluded that application of the formulae permit some of our penalties to be increased at this time. We are doing so before the passage of four years in order to enhance the deterrent effect of these penalties because of their importance to our

enforcement programs. Even with these increases, these penalties appear less than adequate as a full deterrent to violations of the statutes that we enforce. For example, the maximum penalty for a related series of violations under the National Traffic and Motor Vehicle Safety Act of 1966 as amended in 1974 was \$800,000. It would have increased more than threefold, to \$2.45 million, in June 1996 if adjusted for inflation. However, the adjustment was capped at \$880,000. Further, under this aggregate penalty ceiling, on a per vehicle basis the maximum penalty amounts to less than one dollar per vehicle where a substantial fleet was in violation of the Safety Act (codified in 1994 as 49 U.S.C. Chapter 301—Motor Vehicle Safety).

Odometer Tampering and Disclosure

As shown above, Sec. 5(a)(3) of the amended Adjustment Act permits an increase rounded "to the nearest multiple of \$1,000" for penalties between \$1,000 and \$10,000. Under 49 CFR Sec. 578.6(f)(2), a penalty of \$1,650 may be imposed (the original penalty was \$1,500). A figure of \$1,716 results when the inflation factor is applied. The nearest multiple of \$1,000 is \$2,000. Therefore, we are amending 49 CFR Sec. 578.6(f)(2) so that a person who violates a requirement on odometer tampering and disclosure, with intent to defraud, will now be liable for three times the actual damages or \$2,000, whichever is greater.

Consumer Information

The rounding provisions of Sec. 5(a)(6) of the Adjustment Act permit raises to the nearest multiple of \$25,000 where the penalty exceeds \$200,000. Sec. 578.6(d) establishes a maximum penalty of \$440,000 (originally \$400,000) for a related series of violations of consumer information regarding crashworthiness and damage susceptibility. The inflation factor applied to \$440,000 gives \$457,525. As the nearest \$25,000 multiple is \$450,000, we are adjusting the penalty to this amount.

Violations of Safety and Bumper Requirements

Both 49 CFR Sec. 578.6(a) and 49 CFR Sec. 578.6(c)(2) establish a maximum penalty of \$880,000 (originally \$800,000) for related series of violations of Chapter 301—Motor Vehicle Safety, and Chapter 325—Bumper Standards. Multiplying this figure by the inflation factor gives \$915,050. Sec. 5(a)(6) permits a rounding to the nearest multiple of \$25,000, which is \$925,000,

and we are adjusting the penalties to this amount.

Effective Date

The amendments are effective August 13, 1999 and the adjusted penalties apply to violations of pertinent statutes and regulations occurring on and after that date.

Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

We have considered the impact of this rulemaking action under E.O. 12866 and the Department of Transportation's regulatory policies and procedures. This rulemaking document was not reviewed under E.O. 12866, "Regulatory Planning and Review." This action is limited to the adoption of adjustments of civil penalties under statutes that the agency enforces, and has been determined to be not "significant" under the Department of Transportation's regulatory policies and procedures.

Regulatory Flexibility Act

We have also considered the impacts of this rule under the Regulatory Flexibility Act. I certify that this rule will have no significant economic impact on a substantial number of small entities. The following is my statement providing the factual basis for the certification (5 U.S.C. Sec. 605(b)). The amendments primarily affect manufacturers of motor vehicles. Manufacturers of motor vehicles are generally not small businesses within the meaning of the Regulatory Flexibility Act.

The Small Business Administration's regulations define a small business in part as a business entity "which operates primarily within the United States." (13 CFR 121.105(a)) SBA's size standards are organized according to Standard Industrial Classification Codes (SIC), SIC Code 3711 "Motor Vehicles and Passenger Car Bodies" has a small business size standard of 1,000 employees or fewer.

For manufacturers of passenger cars and light trucks, NHTSA estimates there are at most five small manufacturers of passenger cars in the U.S. Since each manufacturer serves a niche market, often specializing in replicas of "classic" cars, production for each manufacturer is fewer than 100 cars per year. Thus, there are at most 500 cars manufactured per year by U.S. small businesses.

In contrast, in 1999, there are approximately nine large manufacturers producing passenger cars, and light trucks in the U.S. Total U.S.

manufacturing production per year is approximately 15 to 15 and a half million passenger cars and light trucks per year. We do not believe small businesses manufacture even 0.1 percent of total U.S. passenger car and light truck production per year.

Further, small organizations and governmental jurisdictions will not be significantly affected as the price of motor vehicles ought not to change as the result of this rule. As explained above, this action is limited to the adoption of a statutory directive, and has been determined to be not "significant" under the Department of Transportation's regulatory policies and procedures.

Finally, this action will not affect our civil penalty policy under the Small Business Regulatory Enforcement Fairness Act (62 FR 37115, July 10, 1997). We shall continue to consider the appropriateness of the penalty to the size of the business charged.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (Public Law 96-511), we state that there are no requirements for information collection associated with this rulemaking action.

National Environmental Policy Act

We have also analyzed this rulemaking action under the National Environmental Policy Act and determined that it has no significant impact on the human environment.

Executive Order 12612 (Federalism)

We have analyzed this rule in accordance with the principles and criteria contained in E.O. 12612, and have determined that it has no significant federalism implications to warrant the preparation of a Federalism Assessment.

Civil Justice Reform

This rule does not have a retroactive or preemptive effect. Judicial review of a rule may be obtained pursuant to 5 U.S.C. 702. That section does not require that a petition for reconsideration be filed prior to seeking judicial review.

Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (Public Law 104-4) requires agencies to prepare a written assessment of the cost, 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 more than \$100 million annually. Because this rule will

not have a \$100 million effect, no Unfunded Mandates assessment will be prepared.

List of Subjects in 49 CFR Part 578

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Penalties, Tires.

In consideration of the foregoing, 49 CFR part 578 is amended as follows:

PART 578—CIVIL PENALTIES

1. The authority citation for 49 CFR part 578 is revised to read as follows:

Authority: 49 U.S.C. 30165, 30505, 32308, 32309, 32507, 32709, 32710, 32912, and 33115; Pub. L. 101-410, 104 Stat. 890; Pub. L. 104-134, 110 Stat. 1372; delegation of authority at 49 CFR 1.50.

2. Section 578.6 is amended by revising the last sentence in paragraphs (a) and (d) and revising paragraphs (c)(2) and (f)(2) to read as follows:

§ 578.6 Civil penalties for violations of specified provisions of Title 49 of the United States Code.

(a) *Motor vehicle safety.* * * * The maximum civil penalty under this paragraph for a related series of violations is \$925,000.

* * * * *

(c) *Bumper standards.* * * *

(2) The maximum civil penalty under this paragraph (c) for a related series of violations is \$925,000.

(d) *Consumer information regarding crashworthiness and damage susceptibility.* * * * The maximum penalty under this paragraph for a related series of violations is \$450,000.

* * * * *

(f) *Odometer tampering and disclosure.* * * *

(2) A person that violates 49 U.S.C. Chapter 327 or a regulation prescribed or order issued thereunder, with intent to defraud, is liable for three times the actual damages or \$2,000, whichever is greater.

* * * * *

Issued on: July 8, 1999.

Ricardo Martinez,
Administrator.

[FR Doc. 99-17807 Filed 7-13-99; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 591

[Docket No. 99-NHTSA-5240; Notice 2]

RIN 2127-AH45

Importation of Vehicles and Equipment Subject to Federal Safety, Bumper, and Theft Prevention Standards

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.
ACTION: Final rule.

SUMMARY: This document amends NHTSA's importation regulations to implement a 1998 statutory amendment that adds "show or display" to the special limited purposes for which vehicles or equipment items may be imported without having to comply with the Federal motor vehicle safety standards (FMVSS). Under the amendments, a person who wants to import a vehicle or equipment item for "show or display" must persuade us that the vehicle or equipment item is of such historical or technological significance that it is worthy of being shown or displayed in this country even though it would be difficult or impossible to be brought into compliance with the FMVSS. We intend this provision to accommodate primarily individuals wishing to import an example of a make or model of a vehicle which its manufacturer never sold in the United States and which therefore has no counterpart that was certified to conform to the FMVSS.

We will allow limited use on the public roads of vehicles imported for "show or display." Before entry, an importer must describe the intended on-road use of the vehicle and submit a copy of an insurance contract containing the condition that the maximum annual mileage of the vehicle shall not exceed 2,500 miles.

Pursuant to the 1998 statutory amendment, we are also allowing owners of vehicles already imported into the United States under other exemptions to apply to us for a change in the terms and conditions under which we permitted their vehicles to be imported. The opportunity to apply for such a change is statutorily limited to the period of 6 months after the effective date of the final rule.

DATES: *Effective date:* The final rule is effective August 13, 1999

FOR FURTHER INFORMATION CONTACT: Taylor Vinson, Office of Chief Counsel, NHTSA (202-366-5263).