

(CPI) for June of 2008 (the calendar year preceding this adjustment) was 218.815.² The CPI for June of 2005 (the calendar year in which the Patient Safety Act CMP was last set) was 194.5. The percent change in these CPIs is an increase of 12.5 percent. This leads to an unrounded increase in the Patient Safety Act's CMP of \$1,250.

Under step 2, we round the amount of the increase (\$1,250) based on the size of the penalty (\$10,000). Because the penalty of \$10,000 is "greater than \$1,000 but less than or equal to \$10,000," we round the increase to the nearest multiple of \$1,000. This leads to a rounded increase of \$1,000, for an increased penalty of \$11,000.

Step 3 requires that the first adjustment to a civil penalty be limited to 10 percent of the penalty amount. This is the first adjustment to the Patient Safety Act's CMP. Therefore, this 10 percent cap is applicable. Pursuant to this cap, the adjusted penalty cannot exceed \$11,000. Because the adjusted penalty is \$11,000, it does not exceed the cap. Accordingly, the Patient Safety Act's revised maximum CMP amount, after adjusting for inflation pursuant to the Inflation Adjustment Act, is \$11,000.

Based on the above, we are amending 42 CFR 3.404(b) to provide that the Secretary may impose a CMP of not more than \$11,000, rather than the current limit of \$10,000, for a violation of the Patient Safety Act's confidentiality requirements.

V. Environmental Impact

We have determined under 21 CFR 25.30(a) and (h) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

VI. Paperwork Reduction Act 1995

We have concluded that the CMP adjustment in this direct final rule is not subject to review by the Office of Management and Budget under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) because it does not constitute a "collection of information." That is, the adjustment does not require disclosure of any information to the Department, third parties, or the public.

² The Inflation Adjustment Act defines "Consumer Price Index" as "the Consumer Price Index for all-urban consumers published by the Department of Labor." Historic data on the Consumer Price Index for all-urban consumers, including the data relied upon in this rulemaking, can be found at [ftp://ftp.bls.gov/pub/special.requests/cpi/cpiiai.txt](http://ftp.bls.gov/pub/special.requests/cpi/cpiiai.txt).

VII. Federalism

The Department has analyzed this direct final rule in accordance with the principles set forth in Executive Order 13132. We have determined that the rule does not contain policies that 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. Accordingly, we have concluded that the rule does not contain policies that have Federalism implications as defined in the Executive Order and, consequently, a Federalism summary impact statement is not required.

VIII. Analysis of Impacts

The Department has examined the impacts of the direct final rule under Executive Order 12866, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The Department believes that this direct final rule is not a significant regulatory action under the Executive Order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because this direct final rule simply adjusts the maximum amount of a CMP, and because the adjustment is required by the Inflation Adjustment Act, the Department certifies that the rule will not have a significant economic impact on a substantial number of small entities.

Section 202(a) of the Unfunded Mandates Reform Act of 1995 requires that agencies prepare a written statement, which includes an assessment of anticipated costs and benefits, before proposing "any rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more (adjusted annually for inflation) in any one year." The current threshold after adjustment for inflation is \$133 million, using the most current (2008) Implicit Price Deflator for the Gross Domestic Product.³ The Department

³ According to the U.S. Department of Commerce, Bureau of Economic Analysis, the implicit price

does not expect this direct final rule to result in any 1-year expenditure that would meet or exceed this amount.

List of Subjects in 42 CFR Part 3

Administrative practice and procedure, Civil money penalty, Confidentiality, Conflict of interests, Courts, Freedom of information, Health, Health care, Health facilities, Health insurance, Health professions, Health records, Hospitals, Investigations, Law enforcement, Medical research, Organization and functions, Patient, Patient safety, Privacy, Privilege, Public health, Reporting and recordkeeping requirements, Safety, State and local governments, Technical assistance.

■ For the reasons stated in the preamble, amend part 3 of title 42 of the Code of Federal Regulations as follows:

PART 3—PATIENT SAFETY ORGANIZATIONS AND PATIENT SAFETY WORK PRODUCT

■ 1. The authority citation for part 3 continues to read:

Authority: 42 U.S.C. 216, 299b–21 through 299b–26; 42 U.S.C. 299c–6.

■ 2. Amend § 3.404 by revising paragraph (b) to read as follows:

§ 3.404 Amount of a civil money penalty.

* * * * *

(b) The Secretary may impose a civil money penalty in the amount of not more than \$11,000.

Dated: August 18, 2009.

Kathleen Sebelius,

Secretary.

[FR Doc. E9–20419 Filed 8–24–09; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 202, 209, 214, 227, 237, and 252

Defense Federal Acquisition Regulation Supplement; Technical Amendments

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is making technical amendments to the Defense Federal

deflator for gross domestic product was indexed at 92.106 in 1995 (the year of the Unfunded Mandates Reform Act) and 122.422 in 2008. See <http://www.bea.gov/national/nipaweb/> (Table 1.1.9).

Acquisition Regulation Supplement (DFARS) to update the list of DoD contracting activities and other references within the DFARS text.

DATES: *Effective Date:* August 25, 2009.

FOR FURTHER INFORMATION CONTACT: Ms. Michele Peterson, Defense Acquisition Regulations System, OUSD (AT&L) DPAP (DARS), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301-3062. Telephone 703-602-0311; facsimile 703-602-7887.

SUPPLEMENTARY INFORMATION: This final rule amends DFARS text as follows:

- 202.101. Updates the listings of DoD contracting activities and military departments and defense agencies.
- 209.403, 214.407-3, and 227.7004. Updates organization names.
- 237.7204. Updates the fill-in portion of a document format to permit insertion of the calendar year.
- 252.244-7000. Updates a reference to a contract clause to reflect a revision to the clause that was published at 74 FR 37626 on July 29, 2009.

List of Subjects in 48 CFR Parts 202, 209, 214, 227, 237, and 252

Government procurement.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

■ Therefore, 48 CFR Parts 202, 209, 214, 227, 237, and 252 are amended as follows:

■ 1. The authority citation for 48 CFR Parts 202, 209, 214, 227, 237, and 252 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 202—DEFINITIONS OF WORDS AND TERMS

■ 2. Section 202.101 is amended by revising the definitions of *Contracting activity* and *Departments and agencies* to read as follows:

202.101 Definitions.

* * * * *

Contracting activity for DoD also means elements designated by the director of a defense agency which has been delegated contracting authority through its agency charter. DoD contracting activities are—

Department of Defense

Counterintelligence Field Activity
Department of Defense Education Activity
TRICARE Management Activity
Washington Headquarters Services,
Acquisition and Procurement Office

Army

Headquarters, U.S. Army Contracting
Command

Joint Contracting Command—Iraq/
Afghanistan
National Guard Bureau
Program Executive Office for Simulation,
Training, and Instrumentation
U.S. Army Aviation and Missile Life Cycle
Management Command
U.S. Army Communications-Electronics Life
Cycle Management Command
U.S. Army Corps of Engineers
U.S. Army Expeditionary Contracting
Command
U.S. Army Intelligence and Security
Command
U.S. Army Joint Munitions and Lethality Life
Cycle Management Command
U.S. Army Medical Command
U.S. Army Medical Research and Materiel
Command
U.S. Army Mission and Installation
Contracting Command
U.S. Army Research, Development, and
Engineering Command
U.S. Army Space and Missile Defense
Command
U.S. Army Sustainment Command
U.S. Army Tank-Automotive and Armaments
Life Cycle Management Command

Navy

Office of the Deputy Assistant Secretary of
the Navy (Acquisition & Logistics
Management)
Naval Air Systems Command
Space and Naval Warfare Systems Command
Naval Facilities Engineering Command
Naval Inventory Control Point
Naval Sea Systems Command
Naval Supply Systems Command
Office of Naval Research
Military Sealift Command
Strategic Systems Programs
Marine Corps Systems Command
Installations and Logistics, Headquarters,
U.S. Marine Corps

Air Force

Office of the Assistant Secretary of the Air
Force (Acquisition)
Office of the Deputy Assistant Secretary
(Contracting)
Air Force Materiel Command
Air Force Reserve Command
Air Combat Command
Air Mobility Command
Air Education and Training Command
Pacific Air Forces
United States Air Forces in Europe
Air Force Space Command
Air Force District of Washington
Air Force Operational Test & Evaluation
Center
Air Force Special Operations Command
United States Air Force Academy
Aeronautical Systems Center
Air Armament Center
Electronic Systems Center
Space and Missile Systems Center
Defense Advanced Research Projects Agency
Office of the Deputy Director, Management
Defense Business Transformation Agency
Contracting Office
Defense Commissary Agency
Directorate of Contracting
Defense Contract Management Agency
Office of the Director, Defense Contract
Management Agency

Defense Finance And Accounting Service
External Services, Defense Finance and
Accounting Service
Defense Information Systems Agency
Defense Information Technology Contracting
Organization
Defense Intelligence Agency
Office of Procurement
Defense Logistics Agency
Acquisition Management Directorate
Defense Supply Centers
Defense Energy Support Center
Defense Security Cooperation Agency
Contracting Division
Defense Security Service
Acquisition and Contracting Branch
Defense Threat Reduction Agency
Acquisition Management Office
Missile Defense Agency
Headquarters, Missile Defense Agency
National Geospatial-Intelligence Agency
Procurement and Contracting Office
National Security Agency
Headquarters, National Security Agency
United States Special Operations Command
Headquarters, United States Special
Operations Command
United States Transportation Command
Directorate of Acquisition
* * * * *

Departments and agencies, as used in DFARS, means the military departments and the defense agencies. The military departments are the Departments of the Army, Navy, and Air Force (the Marine Corps is a part of the Department of the Navy). The defense agencies are the Defense Advanced Research Projects Agency, the Defense Business Transformation Agency, the Defense Commissary Agency, the Defense Contract Management Agency, the Defense Finance and Accounting Service, the Defense Information Systems Agency, the Defense Intelligence Agency, the Defense Logistics Agency, the Defense Security Cooperation Agency, the Defense Threat Reduction Agency, the Missile Defense Agency, the National Geospatial-Intelligence Agency, and the National Security Agency.
* * * * *

PART 209—CONTRACTOR QUALIFICATIONS

209.403 [Amended]

■ 3. Section 209.403 is amended in the definition of *Debarring and suspending official*, in paragraph (1), by removing the entry “National Imagery and Mapping Agency—The General Counsel” and adding in its place “National Geospatial-Intelligence Agency—The General Counsel”.

PART 214—SEALED BIDDING

■ 4. Section 214.407–3 is amended by revising paragraph (e)(v) to read as follows:

214.407–3 Other mistakes disclosed before award.

(e) * * *
(v) National Geospatial-Intelligence Agency: General Counsel, NGA.
* * * * *

PART 227—PATENTS, DATA, AND COPYRIGHTS**227.7004 [Amended]**

■ 5. Section 227.7004 is amended in paragraph (c)(7) by removing “Imagery and Mapping” and adding in its place “Geospatial-Intelligence”.

PART 237—SERVICE CONTRACTING**237.7204 [Amended]**

■ 6. Section 237.7204 is amended under the heading “EDUCATIONAL SERVICE AGREEMENT Agreement No. _____”, in paragraph 1., by removing “19 ____” and adding in its place “_____”.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 7. Section 252.244–7000 is amended by revising the clause date and paragraph (a) to read as follows:

252.244–7000 Subcontracts for Commercial Items and Commercial Components (DoD Contracts).

* * * * *

Subcontracts for Commercial Items and Commercial Components (DoD Contracts) (AUG 2009)

* * * * *

(a) 252.225–7009 Restriction on Acquisition of Certain Articles Containing Specialty Metals (10 U.S.C. 2533b).

* * * * *

[FR Doc. E9–20416 Filed 8–24–09; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF TRANSPORTATION**National Highway Traffic Safety Administration****49 CFR Part 571**

[Docket No. NHTSA–2009–0151]

RIN 2127–AK44

Federal Motor Vehicle Safety Standards; Air Brake Systems

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

ACTION: Final rule.

SUMMARY: This document makes permanent an existing requirement that trailers with antilock brake systems (ABS) be equipped with an external malfunction indicator lamp. The indicator lamp requirement, which is included in the Federal motor vehicle safety standard that governs air-braked vehicles, was originally scheduled to sunset on March 1, 2009, but had previously been extended to September 1, 2009. The agency had established a sunset date for this requirement in light of the increasing numbers of post-2001 tractors which have an in-cab trailer ABS malfunction lamp, making the external trailer lamp redundant. We are making the requirement permanent in light of additional safety purposes served by the external lamp, including: it not only warns the driver of a malfunctioning trailer ABS, but, unlike the in-cab lamps, indicates which trailer in double and trailer applications has a malfunction, and it assists Federal and State roadside inspectors and maintenance personnel in identifying a malfunctioning trailer ABS. This rulemaking was conducted in response to petitions from the Commercial Vehicle Safety Alliance.

DATES: *Effective Date:* This rule is effective August 31, 2009. *Petitions:* Petitions for reconsideration must be received by October 9, 2009.

ADDRESSES: If you wish to petition for reconsideration of this rule, you should refer in your petition to the docket number of this document and submit your petition to: Administrator, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., West Building, Washington, DC, 20590.

The petition will be placed in the docket. Anyone is able to search the electronic form of all documents received into any of our dockets by the name of the individual submitting the document (or signing the document, 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.dot.gov/privacy.html>.

FOR FURTHER INFORMATION CONTACT: For non-legal issues, you may call Mr. George Soodoo, Office of Crash Avoidance Standards (Phone: 202–366–4931; FAX: 202–366–7002). For legal issues, you may call Mr. Ari Scott, Office of the Chief Counsel (Phone: 202–366–2992; FAX: 202–366–3820). You

may send mail to these officials at: National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:**Table of Contents**

- I. Background
- II. Comments
- III. Response to Comments and Agency Decision
- IV. Rulemaking Analyses and Notices

I. Background

The final rule requiring antilock brake systems (ABS) on truck tractors, other air-braked heavy vehicles including trailers, and hydraulic-braked trucks was published in the **Federal Register** (60 FR 13216) on March 10, 1995. As amended by that final rule, FMVSS No. 121, *Air Brake Systems*, required two separate in-cab ABS malfunction indicator lamps for each truck tractor, one for the tractor’s ABS (effective March 1, 1997) and the other for the trailer’s ABS (effective March 1, 2001). The final rule also required air-braked trailers to be equipped with an externally mounted ABS malfunction lamp (effective March 1, 1998) so that the driver of a non-ABS equipped tractor or an ABS-equipped tractor manufactured prior to March 1, 2001, towing an ABS-equipped trailer would be alerted in the event of a malfunction in the trailer ABS.

The requirement for the trailer-mounted ABS malfunction indicator lamp was originally scheduled to expire on March 1, 2009. The National Highway Traffic Safety Administration (NHTSA) established this sunset date, based on the assumption that, after this eight-year period, many of the pre-2001 tractors without the dedicated trailer ABS malfunction indicator lamp would no longer be in long-haul service. The agency based its decision on the belief that the typical tractor life was five to seven years, and therefore decided on an eight-year period for the external ABS malfunction indicator lamp requirement. We further stated our belief that there would be no need for a redundant ABS malfunction lamp mounted on the trailer after the vast majority of tractors were equipped with an in-cab ABS malfunction indicator lamp for the trailer.

Before the trailer-mounted ABS malfunction indicator lamp requirement expired, NHTSA received two petitions from the Commercial Vehicle Safety Alliance (CVSA). CVSA is an international not-for-profit organization comprised of local, State, provincial, territorial and Federal motor carrier safety officials and industry