

List of Subjects in 20 CFR Part 211

Pensions, Railroad employees, Railroad retirement.

For the reasons set out in the preamble, chapter II of title 20 of the Code of Federal Regulations is amended as follows:

PART 211—[AMENDED]

1. The authority citation for part 211 continues to read as follows:

Authority: 45 U.S.C. 231(f).

2. Part 211 is amended by adding a new § 211.16 to read as follows:

§ 211.16 Finality of records of compensation.

(a) *Time limit for corrections to records of compensation.* The Board's record of the compensation reported as paid to an employee for a given period shall be conclusive as to amount, or if no compensation was reported for such period, then as to the employee's having received no compensation for such period, unless the error in the amount of compensation or the failure to make return of the compensation is called to the attention of the Board within four years after the date on which the compensation was required to be reported to the Board as provided for in § 209.6 of this chapter.

(b) *Correction after 4 years.* (1) The Board may correct a report of compensation after the time limit set forth in paragraph (a) of this section where the compensation was posted or not posted as the result of fraud on the part of the employer.

(2) Subject to paragraph (c) of this section, the Board may correct a report of compensation after the time limit set forth in paragraph (a) of this section for one of the following reasons:

(i) Where the compensation was posted for the wrong person or the wrong period;

(ii) Where the earnings were erroneously reported to the Social Security Administration in the good faith belief by the employer or employee that such earnings were not covered under the Railroad Retirement Act and there is a final decision of the Board under part 259 of this chapter that such employer or employee was covered under the Railroad Retirement Act during the period in which the earnings were paid;

(iii) Where a determination pertaining to the coverage under the Railroad Retirement Act of an individual, partnership, or company as an employer, is retroactive; or

(iv) Where a record of compensation could not otherwise be corrected under

this part and where in the judgment of the three-member Board that heads the Railroad Retirement Board failure to make a correction would be inequitable.

(c) *Limitation on Crediting Service.* (1) Except as provided in paragraph (b)(1) of this section, no employee may be credited with service months or tier II compensation beyond the four year period referred to in paragraph (a) of this section unless the employee establishes to the satisfaction of the Board that all employment taxes imposed by sections 3201, 3211, and 3221 of title 26 of the Internal Revenue Code have been paid with respect to the compensation and service.

(2) The limitation on the creditability of service months and tier II compensation in paragraph (c)(1) of this section shall not affect the creditability, for purposes of computing the tier I component of a railroad retirement annuity, of compensation payments with respect to which taxes have been paid under either the Railroad Retirement Tax Act or the Federal Insurance Contributions Act.

Dated: January 15, 1997.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 97-1906 Filed 1-24-97; 8:45 am]

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20 CFR Parts 355, 356

RIN 3220-AB24

Adjustment of Civil Monetary Penalties

AGENCY: Railroad Retirement Board.

ACTION: Final rule.

SUMMARY: As required by subsection (s) of the Debt Collection Improvement Act of 1996, the Railroad Retirement Board (Board) hereby amends its regulations to provide for adjustments in the amount of civil monetary penalties. The amendment will increase the amount of penalties under the jurisdiction of the Board to keep pace with inflation.

EFFECTIVE DATE: January 27, 1997.

ADDRESSES: Secretary to the Board, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611.

FOR FURTHER INFORMATION CONTACT:

Michael C. Litt, General Attorney, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611, (312) 751-4929, TDD (312) 751-4701.

SUPPLEMENTARY INFORMATION:

Subsection (s) of the Debt Collection Improvement Act of 1996, Public Law 104-134, amended the Federal Civil Penalties Inflation Adjustment Act of

1990 to require agencies to publish regulations within 180 days of enactment of the amendment, April 26, 1996, providing for the adjustment of civil monetary penalties provided by law within the jurisdiction of the agency.

The penalties authorized in the Program Fraud Civil Remedies Act and under the false claims provisions at 31 U.S.C. 3729(a) are within the jurisdiction of the Railroad Retirement Board and, therefore, the Board is required to publish regulations providing for the adjustment of the monetary penalties.

The Federal Civil Penalties Inflation Adjustment Act requires that civil monetary penalties be adjusted by the percentage by which the Consumer Price Index for the month of June of the calendar year preceding the adjustment exceeds 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. That Act also mandates rounding of the adjustment, depending on the amount of the maximum penalty: Any adjustment must be rounded to the nearest \$1,000 for maximum penalties greater than \$1,000 and less than or equal to \$10,000. However, the amendment limits the initial increase to ten percent of the amount of the maximum penalty.

In both instances the ratio of the Consumer Price Index for the month of June of the calendar year preceding the adjustment to 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 is 456.7/327.9, which would produce an increase considerably in excess of ten percent of the penalties. Under the Program Fraud Civil Remedies Act the maximum penalty is \$5,000 (there is no minimum penalty); accordingly, this action will increase the maximum penalty by \$500. The minimum and maximum penalties under 31 U.S.C. 3729(a) are \$5,000 and \$10,000 respectively; accordingly, this action will increase the minimum penalty by \$500 and the maximum penalty by \$1,000.

The amendment also restricts application of the adjustments to violations which occur after the date the increase takes effect. Therefore, the increases would not apply in the case of any violation occurring before the effective date of these regulations.

On October 22, 1996, the Board published this rule as a proposed rule (61 FR 54745), inviting comments on or before November 21, 1996. No comments were received.

The Board, with the concurrence of the Office of Management and Budget, has determined that this is not a significant regulatory action for purposes of Executive Order 12866. Therefore, no regulatory impact analysis is required. There are no information collections associated with this rule.

List of Subjects in 20 CFR Parts 355 and 356

Railroad employees, Railroad retirement.

For the reasons set forth in the preamble, title 20, chapter II, subchapter E, is amended as follows:

PART 355—REGULATIONS UNDER THE PROGRAM FRAUD CIVIL REMEDIES ACT OF 1986

1. The authority citation for part 355 continues to read as follows:

Authority: 31 U.S.C. 3809.

§ 355.3 [Amended]

2. Section 355.3(a)(1)(iv) is amended by adding at the end thereof a new sentence to read "This penalty is subject to adjustment in accord with part 356 of this chapter."

3. Section 355.3(b)(1)(ii) is amended by adding at the end thereof a new sentence to read "This penalty is subject to adjustment in accord with part 356 of this chapter."

4. A new part 356 is added to subchapter E to read as follows:

PART 356—CIVIL MONETARY PENALTY INFLATION ADJUSTMENT

Sec.

356.1 Introduction.

356.2 Program Fraud Civil Remedies Act of 1986.

356.3 False claims.

Authority: 28 U.S.C. 2461; 31 U.S.C. 3729, 3809.

§ 356.1 Introduction.

(a) The Federal Civil Penalties Inflation Adjustment Act requires that civil monetary penalties be adjusted by the percentage by which the Consumer Price Index for the month of June of the calendar year preceding the adjustment exceeds 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. That Act also mandates rounding of the adjustment, depending on the amount of the maximum penalty.

(b) The ratio of the Consumer Price Index for the month of June of the calendar year preceding this adjustment to the Consumer Price Index for the month of June of the calendar year in which the amount of civil monetary

penalties provided for under the Program Fraud Civil Remedies Act (31 U.S.C. 3801–3812) and the false claims provisions at 31 U.S.C. 3729(a) was last set or adjusted, 1986, is 456.7/327.9, which produces the following increases in the penalties after applicable rounding:

(1) The maximum penalty under the Program Fraud Civil Remedies Act for a false claim or statement would be increased from \$5,000 to \$7,000.

(2) The maximum and minimum penalties under the false claims provisions at 31 U.S.C. 3729(a) would be increased from \$10,000 to \$14,000 and \$5,000 to \$7,000, respectively.

(c) Imposition of the increases are limited to actions occurring after the effective date of the increases.

(d) No increase may exceed ten percent of the penalty or range of penalties, as applicable.

§ 356.2 Program Fraud Civil Remedies Act of 1986.

In the case of penalties assessed under part 355 of this chapter, an additional penalty of \$500 may be assessed for claims or statements made after October 23, 1996.

§ 356.3 False claims.

In the case of penalties assessed under 31 U.S.C. 3729 based on actions occurring after October 23, 1996, the minimum penalty is \$5,500 and the maximum penalty is \$11,000.

Dated: January 15, 1997.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 97-1916 Filed 1-24-97; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 101

[Docket No. 95P-0337]

Food Labeling: Saccharin and Its Salts; Retail Establishment Notice

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is revoking the food labeling regulation that prescribes conditions for the display by a retail establishment of a notice concerning the sale of products containing saccharin and its salts. This action is being taken

in response to an act to repeal the saccharin notice requirement and a citizen petition submitted by the Calorie Control Council. This action is intended to reduce the burden on small businesses.

EFFECTIVE DATE: January 27, 1997.

FOR FURTHER INFORMATION CONTACT:

Gerard L. McCowin, Center for Food Safety and Applied Nutrition (HFS-151), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-205-4561.

SUPPLEMENTARY INFORMATION: In the Federal Register of September 27, 1996 (61 FR 50770), FDA published a proposal to amend its food labeling regulations by revoking § 101.11 *Saccharin and its salts; retail establishment notice* (21 CFR 101.11). The agency had issued this proposal partly in response to enactment on April 1, 1996, of Pub. L. 104-124, which amended the Federal Food, Drug, and Cosmetic Act (the act) by repealing section 403(p) (21 U.S.C. 343(p)), and partly in response to a citizen petition that it received on October 11, 1995, from the Calorie Control Council requesting that the agency revoke this provision. No comments were received in response to the proposal.

Having received no comments, FDA concludes that, for the reasons set forth in the proposal, it is appropriate to amend its food labeling regulations by revoking § 101.11. In view of the revocation of section 403(p) of the act by Pub. L. 104-124 and the fact that section 403(o) of the act requires that all food products containing saccharin include on their labeling a warning statement (see Statement of final guidelines for labeling of food products containing saccharin (42 FR 62209, December 9, 1977)), the agency finds that § 101.11 is no longer necessary. This action is also consistent with the Administration's "Reinventing Government" initiative which seeks to ease burdens on regulated industry and consumers.

FDA has determined that this final rule is not a significant regulatory action for the purposes of Executive Order 12866. This final rule is expected to reduce the burden on small businesses. Therefore, the agency certifies that this final rule will not have a significant adverse impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601-612).

The agency has determined under 21 CFR 25.24(a)(11) 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