

1996, publication, however, ten then-existing CMPs were not included.

On November 1, 2000, the Department again adjusted CMPs for inflation as prescribed by law. In the case of the CMPs that were not previously adjusted, the 2002 CMPs were increased by ten percent, the initial inflation adjustment limitation. For various reasons, other CMPs were adjusted by lesser amounts, kept at the same levels, or deleted.

In early 2002, GAO conducted a government wide review of the implementation of the Federal Civil Penalties Inflation Adjustment Act of 1990. During that review, GAO determined that the Department had adjusted its civil penalties in a manner inconsistent with the requirements of the statute, and on September 30, 2002, sent a report explaining that determination to the Secretary of Commerce. Specifically, GAO asserted that the Department's method of rounding is inconsistent with the requirements of the statute.

In adjusting its CMPs, the Department noted that the statute requires the raw inflation amounts to be rounded, and also that the categories of rounding were determined by the size of the penalty increase. GAO disagreed, asserting that the "plain language" of the statute requires that the appropriate category of rounding be determined by the size of the penalty, not the size of the increase. GAO did, however, recognize that there exist certain advantages to rounding on the basis of the size of the increase rather than the size of the penalty.

Although the Department believes that the GAO reading of the Federal Civil Penalties Inflation Adjustment Act of 1990 produces a result which is inconsistent with the stated purpose of the statute (*i.e.*, to keep civil penalties in pace with inflation), the Department will nevertheless comply with the recommendation contained in the September 30, 2002, letter. Accordingly, this rule adjusts the civil penalties that are established by law and assessed or enforced by the Department in the manner suggested by GAO. The actual penalty assessed for a particular violation will continue to be dependent upon a variety of factors.

Rulemaking Requirements

It has been determined that this rule is not significant for purposes of Executive Order 12866.

The Department for good cause finds that notice and an opportunity for comments required by 5 U.S.C. 553(b)(B) of the Administrative Procedure Act are unnecessary for this rulemaking because the Debt Collection Improvement Act of 1996 (the Act)

requires the head of each agency to adjust its civil monetary penalties for inflation by regulation at least every four years, and the Federal Civil Monetary Penalty Inflation Adjustment Act of 1990, as amended by the Act, states how to calculate the inflation adjustment. This rule merely adjusts the Department's CMPs according to the statutory requirements, as interpreted by GAO. Because the Department adjusted the CMPs in 2000 in a manner that was not in compliance with GAO's reading of the law, the Department is adjusting the CMPs sooner than four years. The Department does not have any discretion in making the adjustments. For the same reason, and because the published amounts of some penalties have been in error for approximately two years, there also exists good cause to waive the thirty day delay in effectiveness, pursuant to 5 U.S.C. 553(d)(3).

Because notice and opportunity for comment are not required by 5 U.S.C. 553, or any other law, a Regulatory Flexibility Analysis is not required and was not prepared for the purposes of the Regulatory Flexibility Act.

This rule does not contain information collection requirements for purposes of the Paperwork Reduction Act.

List of Subjects in 15 CFR Part 6

Law enforcement, Penalties.

James L. Taylor,

Deputy Chief Financial Officer and Director for Financial Management.

For the reasons set forth in the preamble, subtitle A of title 15 of the Code of Federal Regulations is amended as follows:

PART 6—CIVIL MONETARY PENALTY INFLATION ADJUSTMENTS

1. The authority citation for part 6 continues to read as follows:

Authority: Sec. 4, as amended, and sec. 5, Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 104–134, 110 Stat. 1321, 28 U.S.C. 2461 note.

2. Section 6.4 is revised to read as follows:

§ 6.4 Adjustments to penalties.

- (a) Bureau of Industry and Security.
 - (1) 15 U.S.C. 5408(b)(1), Fastener Quality Act, violation, from \$100,000 to \$110,000.
 - (2) 22 U.S.C. 7661(a)(1)(A), Chemical Weapons Implementation Acts—Inspection Violation, from \$25,000 to \$25,000.
 - (3) 22 U.S.C. 7661(a)(1)(B), Chemical Weapons Implementation Acts—Record

Keeping Violation, from \$5,000 to \$5,000.

(4) 50 U.S.C. 1705(a), International Emergency Power Act—Import Violations, from \$10,000 to \$11,000.

(5) 50 U.S.C. App. 2410(c), Export Administration Act, Non-National Security Violation, from \$11,000 to \$11,000.

(6) 50 U.S.C. App. 2410(c), Export Administration Act and Section 3 Arms Export Control Act, National Security Violation, from \$110,000 to \$120,000

(7) 50 U.S.C. App. 1705(b), International Emergency Powers Act, Export Violations, from \$10,000 to \$11,000.

(b) Economic Development Administration.

(1) 19 U.S.C. 2349, Trade Act of 1974, False Statements or Submissions with Applications for Assistance, from \$5,500 to \$5,500.

(c) Economics and Statistics Administration.

(1) 13 U.S.C. 304, Delinquency on Delayed Filing of Export Documentation, from \$110 per day (up to \$1,100) to \$110 per day (up to \$1,100).

(2) 13 U.S.C. 305, Collection of Foreign Trade Statistics/Violations, from \$1,100 to \$1,100.

(3) 22 U.S.C. 3105(a), International Investment and Trade in Services Act, Failure to Furnish Information, from \$27,500 to \$27,500.

(d) Import Administration.

(1) 19 U.S.C. 81s, Foreign Trade Zone Violation, from \$1,100 to \$1,100.

(2) 19 U.S.C. 1677(f)(4), U.S.-Canada FTA Protective Order Violation, from \$110,000 to \$120,000.

(e) National Oceanic and Atmospheric Administration.

(1) 15 U.S.C. 4243(a)(3), Land Remote-Sensing Commercialization Act, Violations, from \$10,000 to \$11,000.

(2) 15 U.S.C. 5623(a)(3), Land Remote Sensing Policy Act of 1992, Violations, from \$11,000 to \$11,000.

(3) 15 U.S.C. 5658(c), Land Remote Sensing Policy Act of 1992, Violations, from \$11,000 to \$11,000.

(4) 16 U.S.C. 773f(3), Northern Pacific Halibut Act of 1982, violations, from \$27,500 to \$27,500.

(5) 16 U.S.C. 783, Sponge Act Violations, Catching or Taking Within Specified Areas, from \$550 to \$550.

(6) 16 U.S.C. 957, Tuna Convention Act of 1950:

(i) Violation/subsection a: from \$27,500 to \$27,500.

(ii) Subsequent violation/subsection a: from \$55,000 to \$60,000.

(iii) Violation/subsection b: from \$1,100 to \$1,100.

(iv) Subsequent violation/subsection b: from \$5,500 to \$5,500.