

penalties through a 10 percent increase to account for inflation, as required by the Federal Civil Penalties Adjustment Act of 1990, as amended. It is generally consistent with current agency practice and does not impose new substantive requirements. Therefore, Executive Order 13175 does not apply to this proposed rule.

#### *Environmental Documentation*

The Corps prepares appropriate environmental documentation, including Environmental Impact Statements when required, for all permit decisions. Therefore, environmental documentation under the National Environmental Policy Act is not required for this proposed rule. The proposed rule only revises our Class I civil penalties to account for inflation, as required by the Federal Civil Penalties Adjustment Act of 1990, as amended. Appropriate environmental documentation has been, or will be, prepared for each permit action that is subjected to the Class I administrative penalty process.

#### *Congressional Review Act*

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. We will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. The proposed rule is not a "major rule" as defined by 5 U.S.C. 804(2).

#### *Executive Order 12898*

Executive Order 12898 requires that, to the greatest extent practicable and permitted by law, each Federal agency must make achieving environmental justice part of its mission. Executive Order 12898 provides that each Federal agency conduct its programs, policies, and activities that substantially affect human health or the environment in a manner that ensures that such programs, policies, and activities do not have the effect of excluding persons (including populations) from participation in, denying persons (including populations) the benefits of, or subjecting persons (including populations) to discrimination under such programs, policies, and activities

because of their race, color, or national origin.

The proposed rule is not expected to negatively impact any community, and therefore is not expected to cause any disproportionately high and adverse impacts to minority or low-income communities. The proposed rule relates solely to the adjustments to Class I civil penalties under section 309(g)(2)(A) of the Clean Water Act and section 205(e) of the National Fishing Enhancement Act to account for inflation.

#### *Executive Order 13211*

The proposed rule is not a "significant energy action" as defined in Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The proposed rule relates solely to the adjustments to Class I civil penalties under section 309(g)(2)(A) of the Clean Water Act and section 205(e) of the National Fishing Enhancement Act to account for inflation. The proposed rule is consistent with current agency practice, does not impose new substantive requirements and therefore will not have a significant adverse effect on the supply, distribution, or use of energy.

#### **List of Subjects in 33 CFR Part 326.**

Administrative practice and procedure, Intergovernmental relations, Investigations, Law enforcement, Navigation (Water), Water pollution control, Waterways.

Dated: August 11, 2003.

**Robert H. Griffin,**

*Major General, U.S. Army, Deputy Commander.*

For the reasons set forth in the preamble, the Corps is proposing to amend 33 CFR 326.6(a)(1) as follows:

#### **PART 326—Enforcement**

1. The authority citation for 33 CFR part 326 is revised to read as follows:

**Authority:** 33 U.S.C. 401 *et seq.*; 33 U.S.C. 1344; 33 U.S.C. 1413; 33 U.S.C. 2104; 33 U.S.C. 1319; 28 U.S.C. 2461 note.

2. Amend § 326.6 by revising paragraph (a)(1) to read as follows:

##### **§ 326.6 Class I administrative penalties.**

(a) Introduction. (1) This section sets forth procedures for initiation and administration of Class I administrative penalty orders under section 309(g) of the Clean Water Act, and section 205 of the National Fishing Enhancement Act. Under section 309(g)(2)(A) of the Clean

Water Act, Class I civil penalties may not exceed \$11,000 per violation, except that the maximum amount of any Class I civil penalty shall not exceed \$27,500. Under section 205(e) of the National Fishing Enhancement Act, penalties for violations of permits issued in accordance with that Act shall not exceed \$11,000 for each violation.

\* \* \* \* \*

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#### **OFFICE OF MANAGEMENT AND BUDGET**

##### **Office of Federal Procurement Policy**

##### **48 CFR Part 9904**

##### **Cost Accounting Standards Board; Accounting for the Costs of Employee Stock Ownership Plans (ESOPs) Sponsored by Government Contractors**

**AGENCY:** Cost Accounting Standards Board, Office of Federal Procurement Policy, OMB.

**ACTION:** Advance notice of proposed rulemaking.

**SUMMARY:** The Cost Accounting Standards Board (CASB), Office of Federal Procurement Policy, invites public comments on proposed amendments to the Cost Accounting Standards (CAS), "Cost accounting standard for composition and measurement of pension cost", and "Accounting for the cost of deferred compensation". These proposed amendments address issues concerning the recognition of the costs of Employee Stock Ownership Plans (ESOPs) under Government cost-based contracts and subcontracts. These proposed amendments provide criteria for measuring the costs of ESOPs and their assignment to cost accounting periods. The allocation of a contractor's assigned ESOP costs to contracts and subcontracts is addressed in other Standards. The proposed amendments also clarify that accounting for the costs of ESOPs will be covered by the provisions of "Accounting for the cost of deferred compensation" and not by any other Standard.

**DATES:** Comments must be in writing and must be received by November 18, 2003.

**ADDRESSES:** Due to delays in OMB's receipt and processing of mail, respondents are strongly encouraged to submit comments electronically to ensure timely receipt. Electronic comments may be submitted to: