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FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call Mr. Robert Spears of the Office of Standards Evaluation and Development, Coast Guard, telephone 202-267-1099 or 202-267-6826. If you have questions on viewing the docket, call Andrea M. Jenkins, Program Manager, Docket Operations, Department of Transportation, telephone 202-366-0271.

SUPPLEMENTARY INFORMATION:

Background and Purpose

Many fines or other civil monetary penalties (CMPs) for violating Federal laws and regulations were set by Congress long ago, and their deterrent value has weakened with time due to inflation. Congress recognizes this problem and has devised a mechanism to address it. It provides mandatory inflation adjustment formulas and requires Federal agencies to adjust their CMPs using those formulas at least once every four years, making further direct

involvement by Congress unnecessary. This mechanism derives from the Federal Civil Penalties Inflation Adjustment Act of 1990, Pub. L. 101-410, 104 Stat. 890, §§ 1-6, as amended by the Debt Collection Improvement Act of 1996, Pub. L. 104-134, 110 Stat. 1321, § 31001(s)(1); see 28 U.S.C. 2461 note (collectively, “the statute”).

The Coast Guard is amending 33 CFR 27.3 to update CMP adjustments first made in 1997. We expect to repeat the adjustment process in 2007 and quadrennially thereafter. We are also making two non-substantive changes, amending 33 CFR 27.1 to make the legislative authority for CMP adjustments clearer, and removing 33 CFR 27.2 which applied specifically to the 1997 adjustments and is no longer necessary.

Regulatory Procedure

This final rule is published without prior notice of proposed rulemaking or public comment. Pursuant to the Administrative Procedure Act, 5 U.S.C. 553(b)(3)(B), the Coast Guard finds that good cause exists for dispensing with notice and comment in this rulemaking. This rulemaking implements the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of

1996, and with the exception of the non-substantive changes described above, that legislation mandates all our actions and allows us no discretion in implementation, so that prior notice and comment is unnecessary and contrary to the public interest.

Method of Calculation

The statute (see “Background and Purpose”) requires inflation adjustments to be based on changes in the Consumer Price Index (CPI) from June of the calendar year in which the penalties were last set or adjusted, through June of the year prior to the adjustment. The statute also includes precise rules for rounding penalty increases. It limits the first adjustments of an agency’s penalties to 10 percent of the penalty amounts. Our method of calculation takes into account the General Accounting Office (GAO) report “United States Coast Guard Implementation of the Inflation Adjustment Act,” (GAO-03-221R, Nov. 1, 2002) and subsequent discussions with the GAO. Table A below sets forth each CMP provision which is being increased in 2003 and shows the intermediate calculations performed to arrive at the adjusted final maximum penalty contained in the last column.

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