

# Rules and Regulations

Federal Register

Vol. 82, No. 17

Friday, January 27, 2017

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

## DEPARTMENT OF HOMELAND SECURITY

### 6 CFR Part 27

### 8 CFR Parts 270, 274a, and 280

### Coast Guard

### 33 CFR Part 27

### Transportation Security Administration

### 49 CFR Part 1503

[Docket No. DHS–2016–0034]

RIN 1601–AA80

### Civil Monetary Penalty Adjustments for Inflation

**AGENCY:** Department of Homeland Security.

**ACTION:** Final rule.

**SUMMARY:** This Final Rule finalizes the Department of Homeland Security's (DHS) Interim Final Rule that adjusted DHS civil monetary penalties for inflation. The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (2015 Act) was signed into law on November 2, 2015. Using the formula in the 2015 Act and guidance from the Office of Management and Budget (OMB), DHS calculated adjusted penalties. On July 1, 2016, DHS published an Interim Final Rule setting forth the adjusted civil penalty amounts, effective for civil penalties assessed after August 1, 2016 whose associated violations occurred after November 2, 2015.

Pursuant to the 2015 Act, all agencies must adjust civil monetary penalties annually and publish the adjustment in the **Federal Register**. Accordingly, this Final Rule adjusts DHS's civil monetary penalties pursuant to the 2015 Act and OMB guidance. The new penalties will be effective for penalties assessed after

January 27, 2017 whose associated violations occurred after November 2, 2015. DHS also announces that it will make its required annual adjustment of civil monetary penalties in future years by publication of a Final Rule notwithstanding the notice and comment provisions of the Administrative Procedure Act.

**DATES:** This rule is effective on January 27, 2017.

#### FOR FURTHER INFORMATION CONTACT:

Megan Westmoreland, Attorney-Advisor, Office of the General Counsel, U.S. Department of Homeland Security. Phone: 202–447–4384.

#### SUPPLEMENTARY INFORMATION:

#### Table of Contents

- I. Statutory and Regulatory Background
- II. Overview of Final Rule
- III. Adjustments by Component
  - A. National Protection and Programs Directorate
  - B. U.S. Customs and Border Protection
  - C. U.S. Immigration and Customs Enforcement
  - D. U.S. Coast Guard
  - E. Transportation Security Administration
- IV. Discussion of Public Comments
- V. Administrative Procedure Act
- VI. Regulatory Analyses
  - A. Executive Orders 12866 and 13563
  - B. Regulatory Flexibility Act
  - C. Unfunded Mandates Reform Act
  - D. Paperwork Reduction Act

#### I. Statutory and Regulatory Background

On November 2, 2015, the President signed into law the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Pub. L. 114–74 section 701 (Nov. 2, 2105)) (2015 Act).<sup>1</sup> The 2015 Act amended the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note) to improve the effectiveness of civil monetary penalties and to maintain their deterrent effect. The 2015 Act required agencies to: (1) Adjust the level of civil monetary penalties with an initial “catch-up” adjustment through issuance of an Interim Final Rule (IFR) and (2) make subsequent annual adjustments for inflation. Through the “catch-up” adjustment, agencies were required to adjust the maximum amounts of civil monetary penalties to more accurately reflect inflation rates. The 2015 Act required that agencies

publish their IFRs in the **Federal Register** no later than July 1, 2016 and that the adjusted amounts were to take effect no later than August 1, 2016.

For the subsequent annual adjustments, the 2015 Act requires agencies to increase the penalty amounts by a cost-of-living adjustment. The 2015 Act directs OMB to provide guidance to agencies each year to assist agencies in making the annual adjustments. The 2015 Act requires agencies to make the annual adjustments no later than January 15 of each year and to publish the adjustments in the **Federal Register**.

Pursuant to the 2015 Act, DHS undertook a review of the civil penalties that DHS and its components administer.<sup>2</sup> On July 1, 2016, DHS published an IFR adjusting the civil monetary penalties with an initial “catch-up” adjustment, as required by the 2015 Act. *See* 81 FR 42987. DHS calculated the adjusted penalties based upon nondiscretionary provisions in the 2015 Act and upon guidance that OMB issued to agencies on February 25, 2016.<sup>3</sup> The adjusted penalties were effective for civil penalties assessed after August 1, 2016 (the effective date of the IFR) whose associated violations occurred after November 2, 2015 (the date of enactment of the 2015 Act). DHS published a correction to the IFR on August 23, 2016 to correct one amendatory instruction. *See* 81 FR 57442.

#### II. Overview of the Final Rule

This rule adopts, as final, the civil monetary penalty adjustment methodology that DHS announced in the IFR. This Final Rule also makes the 2017 annual inflation adjustment pursuant to the 2015 Act and pursuant to guidance OMB issued to agencies on

<sup>2</sup> The 2015 Act applies to all agency civil penalties except for any penalty (including any addition to tax and additional amount) under the Internal Revenue Code of 1986 (26 U.S.C. 1 *et seq.*) and the Tariff Act of 1930 (19 U.S.C. 1202 *et seq.*). *See* sec. 4(a)(1) of the 2015 Act. In the case of DHS, several civil penalties that are collected by U.S. Customs and Border Protection (CBP) and the U.S. Coast Guard fall under the Tariff Act of 1930, and thus DHS did not adjust those civil penalties in this rulemaking.

<sup>3</sup> OMB, Implementation of the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Table A, 24 February 2016. <https://www.whitehouse.gov/sites/default/files/omb/memoranda/2016/m-16-06.pdf>.

<sup>1</sup> The 2015 Act was enacted as part of the Bipartisan Budget Act of 2015, Public Law 114–74 (Nov. 2, 2015).

December 16, 2016.<sup>4</sup> Where applicable, we have finalized conforming edits to regulatory text. The penalty amounts in this Final Rule will be effective for penalties assessed after January 27, 2017 where the associated violation occurred after November 2, 2015. Consistent with OMB guidance, the 2015 Act does not change previously assessed penalties that the agency is actively collecting or has collected.

The IFR established the initial “catch-up” adjustment for all civil penalties that DHS and its components administer. This Final Rule makes the next adjustment to the amounts, pursuant to the 2015 Act and upon OMB guidance. The adjusted penalty amounts will apply to penalties assessed after the effective date of this Final Rule. We discuss civil penalties by DHS component in Section III below. For each component identified in

Section III, below, we briefly describe the relevant civil penalty (or penalties), and we provide a table showing the increase in the penalties for 2017. In the table for each component, we show (1) the penalty name, (2) the penalty statutory and/or regulatory citation, (3) the penalty amount as adjusted in the IFR, (4) the cost-of-living adjustment multiplier for 2017 that OMB provided in its December 16, 2016 guidance, and (5) the new 2017 adjusted penalty. For a more complete discussion of the method used for calculating the initial “catch-up” inflation adjustments and a component-by-component breakdown to the nature of the civil penalties and relevant legal authorities, please see the IFR preamble at 81 FR 42987–43000.

**III. Adjustments by Component**

In the following sections, we briefly describe the civil penalties that DHS and its components assess. We include

tables at the end of each section, which list the individual adjustments for each penalty.

*A. National Protection and Programs Directorate*

The National Protection and Programs Directorate (NPPD) administers only one civil penalty that the 2015 Act affects. That penalty assesses fines for violations of the Chemical Facility Anti-Terrorism Standards (CFATS). CFATS is a program that regulates the security of chemical facilities that, in the discretion of the Secretary, present high levels of security risk. DHS established the CFATS program in 2007 pursuant to section 550 of the Department of Homeland Security Appropriations Act of 2007 (Pub. L. 109–295).<sup>5</sup> The CFATS regulation is located in part 27 of title 6 of the Code of Federal Regulations (CFR).

TABLE 1—CFATS CIVIL PENALTY ADJUSTMENT

Penalty name	Citation	Penalty amount as adjusted in the 2016 IFR	Multiplier*	New penalty as adjusted by this final rule
Penalty for non-compliance with CFATS regulations.	6 U.S.C. 624(b)(1); ..... 6 CFR 27.300(b)(3) .....	\$32,796 per day .....	1.01636	\$33,333

\*OMB, Implementation of the 2017 annual adjustment pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, December 16, 2016. [https://www.whitehouse.gov/sites/default/files/omb/memoranda/2017/m-17-11\\_0.pdf](https://www.whitehouse.gov/sites/default/files/omb/memoranda/2017/m-17-11_0.pdf).

*B. U.S. Customs and Border Protection*

U.S. Customs and Border Protection (CBP) assesses civil monetary penalties for certain violations of title 8 of the CFR regarding the Immigration and Nationality Act of 1952 (Pub. L. 82–414, as amended) (INA). The INA contains

provisions that impose penalties on persons, including carriers and aliens, who violate specified provisions of the INA. CBP’s relevant penalty provisions are located in numerous sections of the INA, however CBP has enumerated these penalties in regulation in one location—in 8 CFR 280.53. For a

complete list of the INA sections for which penalties are assessed, in addition to a brief description of each violation, see the IFR preamble at 81 FR 42989–42990. Below is a table showing the 2017 adjustment for the penalties that CBP administers.

TABLE 2—U.S. CUSTOMS AND BORDER PROTECTION CIVIL PENALTIES ADJUSTMENTS

Penalty name	Citation	Penalty amount as adjusted in the 2016 IFR	Multiplier*	New penalty as adjusted by this final rule
Penalties for non-compliance with arrival and departure manifest requirements for passengers, crewmembers, or occupants transported on commercial vessels or aircraft arriving to or departing from the United States.	8 U.S.C. 1221(g); 8 CFR 280.53(c)(1) (INA section 231(g)).	\$1,312 .....	1.01636	\$1,333
Penalties for non-compliance with landing requirements at designated ports of entry for aircraft transporting aliens.	8 U.S.C. 1224; 8 CFR 280.53(c)(2) (INA section 234).	3,563 .....	1.01636	3,621

<sup>4</sup> OMB, Implementation of the 2017 annual adjustment pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, December 16, 2016. [https://www.whitehouse.gov/sites/default/files/omb/memoranda/2017/m-17-11\\_0.pdf](https://www.whitehouse.gov/sites/default/files/omb/memoranda/2017/m-17-11_0.pdf) (last accessed Dec. 21, 2016).

<sup>5</sup> Section 550 has since been superseded by the Protecting and Securing Chemical Facilities from

Terrorist Attacks Act of 2014 (Pub. L. 113–254). The new legislation codified the statutory authority for the CFATS program within Title XXI of the Homeland Security Act of 2002, as amended. See 6 U.S.C. 621 *et seq.*

TABLE 2—U.S. CUSTOMS AND BORDER PROTECTION CIVIL PENALTIES ADJUSTMENTS—Continued

Penalty name	Citation	Penalty amount as adjusted in the 2016 IFR	Multiplier*	New penalty as adjusted by this final rule
Penalties for failure to depart voluntarily.	8 U.S.C. 1229c(d); 8 CFR 280.53(c)(3) (INA section 240B(d)).	1,502–7,512 .....	1.01636	1,527–7,635
Penalties for violations of removal orders relating to aliens transported on vessels or aircraft under section 241(d) of the INA, or for costs associated with removal under section 241(e) of the INA.	8 U.S.C. 1253(c)(1)(A); 8 CFR 280.53(c)(4) (INA section 243(c)(1)(A)).	3,005 .....	1.01636	3,054
Penalties for failure to remove alien stowaways under section 241(d)(2) of the INA.	8 U.S.C. 1253(c)(1)(B); 8 CFR 280.53(c)(4) (INA section 243(c)(1)(B)).	7,512 .....	1.01636	7,635
Penalties for failure to report an illegal landing or desertion of alien crewmen, and for each alien not reported on arrival or departure manifest or lists required in accordance with section 251 of the INA.	8 U.S.C. 1281(d); 8 CFR 280.53(c)(5) (INA section 251(d)).	356 for each alien .....	1.01636	362 for each alien
Penalties for use of alien crewmen for longshore work in violation of section 251(d) of the INA.	8 U.S.C. 1281(d); 8 CFR 280.53(c)(5) (INA section 251(d)).	8,908 .....	1.01636	9,054
Penalties for failure to control, detain, or remove alien crewmen.	8 U.S.C. 1284(a); 8 CFR 280.53(c)(6) (INA section 254(a)).	891–5,345 .....	1.01636	906–5,432
Penalties for employment on passenger vessels of aliens afflicted with certain disabilities.	8 U.S.C. 1285; 8 CFR 280.53(c)(7) (INA section 255).	1,782 .....	1.01636	1,811
Penalties for discharge of alien crewmen.	8 U.S.C. 1286; 8 CFR 280.53(c)(8) (INA section 256).	2,672–5,345 .....	1.01636	2,716–5,432
Penalties for bringing into the United States alien crewmen with intent to evade immigration laws.	8 U.S.C. 1287; 8 CFR 280.53(c)(9) (INA section 257).	17,816 .....	1.01636	18,107
Penalties for failure to prevent the unauthorized landing of aliens.	8 U.S.C. 1321(a); 8 CFR 280.53(c)(10) (INA section 271(a)).	5,345 .....	1.01636	5,432
Penalties for bringing to the United States aliens subject to denial of admission on a health-related ground.	8 U.S.C. 1322(a); 8 CFR 280.53(c)(11) (INA section 272(a)).	5,345 .....	1.01636	5,432
Penalties for bringing to the United States aliens without required documentation.	8 U.S.C. 1323(b); 8 CFR 280.53(c)(12) (INA section 273(b)).	5,345 .....	1.01636	5,432
Penalties for failure to depart	8 U.S.C. 1324d; 8 CFR 280.53(c)(13) (INA section 274D).	751 .....	1.01636	763
Penalties for improper entry ...	8 U.S.C. 1325(b); 8 CFR 280.53(c)(14) (INA section 275(b)).	75–376 .....	1.01636	76–382

\* OMB, Implementation of the 2017 annual adjustment pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, December 16, 2016. [https://www.whitehouse.gov/sites/default/files/omb/memoranda/2017/m-17-11\\_0.pdf](https://www.whitehouse.gov/sites/default/files/omb/memoranda/2017/m-17-11_0.pdf).

### C. U.S. Immigration and Customs Enforcement

U.S. Immigration and Customs Enforcement (ICE) assesses civil monetary penalties for certain employment-related violations arising from the INA. ICE's civil penalties are located in title 8 of the CFR.

There are three different sections in the INA that impose civil monetary penalties for violations of the laws that relate to employment actions: Sections 274A, 274B, and 274C. ICE has primary enforcement responsibilities for two of these civil penalty provisions (sections 274A and 274C), and the Department of Justice (DOJ) has enforcement

responsibilities for one of these civil penalty provisions (section 274B). The INA, in sections 274A and 274C, provides for imposition of civil penalties for various specified unlawful acts pertaining to the employment eligibility verification process (Form I-9, Employment Eligibility Verification)

and the employment of unauthorized aliens. Because both DHS and DOJ implement the three employment-related penalty sections in the INA, both

Departments are codifying the civil penalty amounts in their implementing regulations. For a complete description of the civil money penalties assessed and a discussion of DHS's and DOJ's

efforts to update the penalties in years past, see the IFR preamble at 81 FR 42991. Below is a table showing the 2017 adjustment for the penalties that ICE administrators.

TABLE 3—U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT CIVIL PENALTIES ADJUSTMENTS

Penalty name	Citation	Penalty amount as adjusted in the 2016 IFR	Multiplier *	New penalty as adjusted by this final rule
Civil penalties for violation of Immigration and Naturalization Act (INA) sections 274C(a)(1)–(a)(4), penalty for first offense.	8 CFR 270.3(b)(1)(ii)(A) .....	\$445–\$3,563	1.01636	\$452–\$3,621
Civil penalties for violation of Immigration and Naturalization Act (INA) sections 274C(a)(5)–(a)(6), penalty for first offense.	8 CFR 270.3(b)(1)(ii)(B) .....	376–3,005	1.01636	382–3,054
Civil penalties for violation of Immigration and Naturalization Act (INA) sections 274C(a)(1)–(a)(4), penalty for subsequent offenses.	8 CFR 270.3(b)(1)(ii)(C) .....	3,563–8,908	1.01636	3,621–9,054
Civil penalties for violation of Immigration and Naturalization Act (INA) sections 274C(a)(5)–(a)(6), penalty for subsequent offenses.	8 CFR 270.3(b)(1)(ii)(D) .....	3,005–7,512	1.01636	3,054–7,635
Violation/prohibition of indemnity bonds .....	8 CFR 274a.8(b) .....	2,156	1.01636	2,191
Civil penalties for knowingly hiring, recruiting, referral, or retention of unauthorized aliens—Penalty for first offense (per unauthorized alien).	8 CFR 274a.10(b)(1)(ii)(A) .....	539–4,313	1.01636	548–4,384
Penalty for second offense (per unauthorized alien) .....	8 CFR 274a.10(b)(1)(ii)(B) .....	4,313–10,781	1.01636	4,384–10,957
Penalty for third or subsequent offense (per unauthorized alien).	8 CFR 274a.10(b)(1)(ii)(C) .....	6,469–21,563	1.01636	6,575–21,916
Civil penalties for I–9 paperwork violations .....	8 CFR 274a.10(b)(2) .....	216–2,156	1.01636	220–2,191

\*OMB, Implementation of the 2017 annual adjustment pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, December 16, 2016. [https://www.whitehouse.gov/sites/default/files/omb/memoranda/2017/m-17-11\\_0.pdf](https://www.whitehouse.gov/sites/default/files/omb/memoranda/2017/m-17-11_0.pdf).

D. U.S. Coast Guard

The Coast Guard is authorized to assess close to 150 penalties involving maritime safety and security and environmental stewardship that are critical to the continued success of Coast Guard missions. Various statutes in titles 14, 16, 19, 33, 42, 46, and 49 of the United States Code authorize these penalties. Titles 33 and 46 authorize the vast majority of these penalties as these statutes deal with navigation, navigable waters, and shipping. Beyond titles 33 and 46, the Coast Guard is also authorized to collect civil monetary penalties related to the organization and management of the

Coast Guard, aquatic species conservation, obstruction of revenue, and hazardous substances and materials. For a complete discussion of the civil monetary penalties assessed by the Coast Guard, see the IFR preamble at 81 FR 42992.

The Coast Guard has identified the penalties it administers, adjusted those penalties for inflation, and is listing those new penalties in a table located in the CFR—specifically, Table 1 in 33 CFR 27.3. Table 1 in 33 CFR 27.3 identifies the statutes that provide the Coast Guard with civil monetary penalty authority and sets out the inflation-adjusted maximum penalty that the Coast Guard may impose pursuant to

each statutory provision. Table 1 in 33 CFR 27.3 provides the current maximum penalty for violations that occurred after November 2, 2015. The applicable civil penalty amounts for violations occurring on or before November 2, 2015 are set forth in previously published regulations amending 33 CFR part 27. To find the applicable penalty amount for a violation that occurred on or before November 2, 2015, look to the prior versions of the CFR that pertain to the date on which the violation occurred. Table 4 below shows the 2017 adjustment for the penalties that the Coast Guard administers.

TABLE 4—U.S. COAST GUARD CIVIL PENALTIES ADJUSTMENTS

Penalty name	Citation	Penalty amount as adjusted in the 2016 IFR	Multiplier *	New penalty as adjusted by this final rule
Saving Life and Property .....	14 U.S.C. 88(c) .....	\$10,017	1.01636	\$10,181
Saving Life and Property; Intentional Interference with Broadcast.	14 U.S.C. 88(e) .....	1,028	1.01636	1,045
Confidentiality of Medical Quality Assurance Records (first offense).	14 U.S.C. 645(i); 33 CFR 27.3 .....	5,032	1.01636	5,114
Confidentiality of Medical Quality Assurance Records (subsequent offenses).	14 U.S.C. 645(i); 33 CFR 27.3 .....	33,546	1.01636	34,095
Aquatic Nuisance Species in Waters of the United States.	16 U.S.C. 4711(g)(1); 33 CFR 27.3 .....	37,561	1.01636	38,175

TABLE 4—U.S. COAST GUARD CIVIL PENALTIES ADJUSTMENTS—Continued

Penalty name	Citation	Penalty amount as adjusted in the 2016 IFR	Multiplier *	New penalty as adjusted by this final rule
Obstruction of Revenue Officers by Masters of Vessels.	19 U.S.C. 70; 33 CFR 27.3 .....	7,500	1.01636	7,623
Obstruction of Revenue Officers by Masters of Vessels—Minimum Penalty.	19 U.S.C. 70; 33 CFR 27.3 .....	1,750	1.01636	1,779
Failure to Stop Vessel When Directed; Master, Owner, Operator or Person in Charge.	19 U.S.C. 1581(d) .....	** 5,000	N/A	** 5,000
Failure to Stop Vessel When Directed; Master, Owner, Operator or Person in Charge—Minimum Penalty.	19 U.S.C. 1581(d) .....	** 1,000	N/A	** 1,000
Anchorage Ground/Harbor Regulations General.	33 U.S.C. 471; 33 CFR 27.3 .....	10,875	1.01636	11,053
Anchorage Ground/Harbor Regulations St. Mary's river.	33 U.S.C. 474; 33 CFR 27.3 .....	750	1.01636	762
Bridges/Failure to Comply with Regulations ...	33 U.S.C. 495(b); 33 CFR 27.3 .....	27,455	1.01636	27,904
Bridges/Drawbridges .....	33 U.S.C. 499(c); 33 CFR 27.3 .....	27,455	1.01636	27,904
Bridges/Failure to Alter Bridge Obstructing Navigation.	33 U.S.C. 502(c); 33 CFR 27.3 .....	27,455	1.01636	27,904
Bridges/Maintenance and Operation .....	33 U.S.C. 533(b); 33 CFR 27.3 .....	27,455	1.01636	27,904
Bridge to Bridge Communication; Master, Person in Charge or Pilot.	33 U.S.C. 1208(a); 33 CFR 27.3 .....	2,000	1.01636	2,033
Bridge to Bridge Communication; Vessel .....	33 U.S.C. 1208(b); 33 CFR 27.3 .....	2,000	1.01636	2,033
PWSA Regulations .....	33 U.S.C. 1232(a); 33 CFR 27.3 .....	88,613	1.01636	90,063
Vessel Navigation: Regattas or Marine Parades; Unlicensed Person in Charge.	33 U.S.C. 1236(b); 33 CFR 27.3 .....	8,908	1.01636	9,054
Vessel Navigation: Regattas or Marine Parades; Owner Onboard Vessel.	33 U.S.C. 1236(c); 33 CFR 27.3 .....	8,908	1.01636	9,054
Vessel Navigation: Regattas or Marine Parades; Other Persons.	33 U.S.C. 1236(d); 33 CFR 27.3 .....	4,454	1.01636	4,527
Oil/Hazardous Substances: Discharges (Class I per violation).	33 U.S.C. 1321(b)(6)(B)(i); 33 CFR 27.3 .....	17,816	1.01636	18,107
Oil/Hazardous Substances: Discharges (Class I total under paragraph).	33 U.S.C. 1321(b)(6)(B)(i); 33 CFR 27.3 .....	44,539	1.01636	45,268
Oil/Hazardous Substances: Discharges (Class II per day of violation).	33 U.S.C. 1321(b)(6)(B)(ii); 33 CFR 27.3 .....	17,816	1.01636	18,107
Oil/Hazardous Substances: Discharges (Class II total under paragraph).	33 U.S.C. 1321(b)(6)(B)(ii); 33 CFR 27.3 .....	222,695	1.01636	226,338
Oil/Hazardous Substances: Discharges (per day of violation) Judicial Assessment.	33 U.S.C. 1321(b)(7)(A); 33 CFR 27.3 .....	44,539	1.01636	45,268
Oil/Hazardous Substances: Discharges (per barrel of oil or unit discharged) Judicial Assessment.	33 U.S.C. 1321(b)(7)(A); 33 CFR 27.3 .....	1,782	1.01636	1,811
Oil/Hazardous Substances: Failure to Carry Out Removal/Comply With Order (Judicial Assessment).	33 U.S.C. 1321(b)(7)(B); 33 CFR 27.3 .....	44,539	1.01636	45,268
Oil/Hazardous Substances: Failure to Comply with Regulation Issued Under 1321(j) (Judicial Assessment).	33 U.S.C. 1321(b)(7)(C); 33 CFR 27.3 .....	44,539	1.01636	45,268
Oil/Hazardous Substances: Discharges, Gross Negligence (per barrel of oil or unit discharged) Judicial Assessment.	33 U.S.C. 1321(b)(7)(D); 33 CFR 27.3 .....	5,345	1.01636	5,432
Oil/Hazardous Substances: Discharges, Gross Negligence—Minimum Penalty (Judicial Assessment).	33 U.S.C. 1321(b)(7)(D); 33 CFR 27.3 .....	178,156	1.01636	181,071
Marine Sanitation Devices; Operating .....	33 U.S.C. 1322(j); 33 CFR 27.3 .....	7,500	1.01636	7,623
Marine Sanitation Devices; Sale or Manufacture.	33 U.S.C. 1322(j); 33 CFR 27.3 .....	20,000	1.01636	20,327
International Navigation Rules; Operator .....	33 U.S.C. 1608(a); 33 CFR 27.3 .....	14,023	1.01636	14,252
International Navigation Rules; Vessel .....	33 U.S.C. 1608(b); 33 CFR 27.3 .....	14,023	1.01636	14,252
Pollution from Ships; General .....	33 U.S.C. 1908(b)(1); 33 CFR 27.3 .....	70,117	1.01636	71,264
Pollution from Ships; False Statement .....	33 U.S.C. 1908(b)(1); 33 CFR 27.3 .....	14,023	1.01636	14,252
Inland Navigation Rules; Operator .....	33 U.S.C. 2072(a); 33 CFR 27.3 .....	14,023	1.01636	14,252
Inland Navigation Rules; Vessel .....	33 U.S.C. 2072(b); 33 CFR 27.3 .....	14,023	1.01636	14,252
Shore Protection; General .....	33 U.S.C. 2609(a); 33 CFR 27.3 .....	49,467	1.01636	50,276
Shore Protection; Operating Without Permit ..	33 U.S.C. 2609(b); 33 CFR 27.3 .....	19,787	1.01636	20,111
Oil Pollution Liability and Compensation .....	33 U.S.C. 2716a(a); 33 CFR 27.3 .....	44,539	1.01636	45,268
Clean Hulls .....	33 U.S.C. 3852(a)(1)(A); 33 CFR 27.3 .....	40,779	1.01636	41,446
Clean Hulls-related to false statements .....	33 U.S.C. 3852(a)(1)(A); 33 CFR 27.3 .....	54,373	1.01636	55,263
Clean Hulls-Recreational Vessel .....	33 U.S.C. 3852(c); 33 CFR 27.3 .....	5,437	1.01636	5,526

TABLE 4—U.S. COAST GUARD CIVIL PENALTIES ADJUSTMENTS—Continued

Penalty name	Citation	Penalty amount as adjusted in the 2016 IFR	Multiplier *	New penalty as adjusted by this final rule
Hazardous Substances, Releases, Liability, Compensation (Class I).	42 U.S.C. 9609(a); 33 CFR 27.3 .....	53,907	1.01636	54,789
Hazardous Substances, Releases, Liability, Compensation (Class II).	42 U.S.C. 9609(b); 33 CFR 27.3 .....	53,907	1.01636	54,789
Hazardous Substances, Releases, Liability, Compensation (Class II subsequent offense).	42 U.S.C. 9609(b); 33 CFR 27.3 .....	161,721	1.01636	164,367
Hazardous Substances, Releases, Liability, Compensation (Judicial Assessment).	42 U.S.C. 9609(c); 33 CFR 27.3 .....	53,907	1.01636	54,789
Hazardous Substances, Releases, Liability, Compensation (Judicial Assessment subsequent offense).	42 U.S.C. 9609(c); 33 CFR 27.3 .....	161,721	1.01636	164,367
Safe Containers for International Cargo .....	46 U.S.C. App 1505(a)(2) (codified as 46 USC 80509); 33 CFR 27.3 .....	5,893	1.01636	5,989
Suspension of Passenger Service .....	46 U.S.C. App 1805(c)(2) (codified 46 USC 70305); 33 CFR 27.3 .....	58,929	1.01636	59,893
Vessel Inspection or Examination Fees .....	46 U.S.C. 2110(e); 33 CFR 27.3 .....	8,908	1.01636	9,054
Alcohol and Dangerous Drug Testing .....	46 U.S.C. 2115; 33 CFR 27.3 .....	7,251	1.01636	7,370
Negligent Operations: Recreational Vessels ..	46 U.S.C. 2302(a); 33 CFR 27.3 .....	6,559	1.01636	6,666
Negligent Operations: Other Vessels .....	46 U.S.C. 2302(a); 33 CFR 27.3 .....	32,796	1.01636	33,333
Operating a Vessel While Under the Influence of Alcohol or a Dangerous Drug.	46 U.S.C. 2302(c)(1); 33 CFR 27.3 .....	7,251	1.01636	7,370
Vessel Reporting Requirements: Owner, Charterer, Managing Operator, or Agent.	46 U.S.C. 2306(a)(4); 33 CFR 27.3 .....	11,293	1.01636	11,478
Vessel Reporting Requirements: Master .....	46 U.S.C. 2306(b)(2); 33 CFR 27.3 .....	2,259	1.01636	2,296
Immersion Suits .....	46 U.S.C. 3102(c)(1); 33 CFR 27.3 .....	11,293	1.01636	11,478
Inspection Permit .....	46 U.S.C. 3302(i)(5); 33 CFR 27.3 .....	2,355	1.01636	2,394
Vessel Inspection; General .....	46 U.S.C. 3318(a); 33 CFR 27.3 .....	11,293	1.01636	11,478
Vessel Inspection; Nautical School Vessel ....	46 U.S.C. 3318(g); 33 CFR 27.3 .....	11,293	1.01636	11,478
Vessel Inspection; Failure to Give Notice IAW 3304(b).	46 U.S.C. 3318(h); 33 CFR 27.3 .....	2,259	1.01636	2,296
Vessel Inspection; Failure to Give Notice IAW 3309(c).	46 U.S.C. 3318(i); 33 CFR 27.3 .....	2,259	1.01636	2,296
Vessel Inspection; Vessel ≥ 1600 Gross Tons	46 U.S.C. 3318(j)(1); 33 CFR 27.3 .....	22,587	1.01636	22,957
Vessel Inspection; Vessel < 1600 Gross Tons	46 U.S.C. 3318(j)(1); 33 CFR 27.3 .....	4,517	1.01636	4,591
Vessel Inspection; Failure to Comply with 3311(b).	46 U.S.C. 3318(k); 33 CFR 27.3 .....	22,587	1.01636	22,957
Vessel Inspection; Violation of 3318(b)–3318(f).	46 U.S.C. 3318(l); 33 CFR 27.3 .....	11,293	1.01636	11,478
List/count of Passengers .....	46 U.S.C. 3502(e); 33 CFR 27.3 .....	235	1.01636	239
Notification to Passengers .....	46 U.S.C. 3504(c); 33 CFR 27.3 .....	23,548	1.01636	23,933
Notification to Passengers; Sale of Tickets ....	46 U.S.C. 3504(c); 33 CFR 27.3 .....	1,177	1.01636	1,196
Copies of Laws on Passenger Vessels; Master.	46 U.S.C. 3506; 33 CFR 27.3 .....	471	1.01636	479
Liquid Bulk/Dangerous Cargo .....	46 U.S.C. 3718(a)(1); 33 CFR 27.3 .....	58,871	1.01636	59,834
Uninspected Vessels .....	46 U.S.C. 4106; 33 CFR 27.3 .....	9,893	1.01636	10,055
Recreational Vessels (maximum for related series of violations).	46 U.S.C. 4311(b)(1); 33 CFR 27.3 .....	311,470	1.01636	316,566
Recreational Vessels; Violation of 4307(a) ....	46 U.S.C. 4311(b)(1); 33 CFR 27.3 .....	6,229	1.01636	6,331
Recreational vessels .....	46 U.S.C. 4311(c); 33 CFR 27.3 .....	2,355	1.01636	2,394
Uninspected Commercial Fishing Industry Vessels.	46 U.S.C. 4507; 33 CFR 27.3 .....	9,893	1.01636	10,055
Abandonment of Barges .....	46 U.S.C. 4703; 33 CFR 27.3 .....	1,677	1.01636	1,704
Load Lines .....	46 U.S.C. 5116(a); 33 CFR 27.3 .....	10,781	1.01636	10,957
Load Lines; Violation of 5112(a) .....	46 U.S.C. 5116(b); 33 CFR 27.3 .....	21,563	1.01636	21,916
Load Lines; Violation of 5112(b) .....	46 U.S.C. 5116(c); 33 CFR 27.3 .....	10,781	1.01636	10,957
Reporting Marine Casualties .....	46 U.S.C. 6103(a); 33 CFR 27.3 .....	37,561	1.01636	38,175
Reporting Marine Casualties; Violation of 6104.	46 U.S.C. 6103(b); 33 CFR 27.3 .....	9,893	1.01636	10,055
Manning of Inspected Vessels; Failure to Report Deficiency in Vessel Complement.	46 U.S.C. 8101(e); 33 CFR 27.3 .....	1,782	1.01636	1,811
Manning of Inspected Vessels .....	46 U.S.C. 8101(f); 33 CFR 27.3 .....	17,816	1.01636	18,107
Manning of Inspected Vessels; Employing or Serving in Capacity not Licensed by USCG.	46 U.S.C. 8101(g); 33 CFR 27.3 .....	17,816	1.01636	18,107
Manning of Inspected Vessels; Freight Vessel < 100 GT, Small Passenger Vessel, or Sailing School Vessel.	46 U.S.C. 8101(h); 33 CFR 27.3 .....	2,355	1.01636	2,394
Watchmen on Passenger Vessels .....	46 U.S.C. 8102(a) .....	2,355	1.01636	2,394
Citizenship Requirements .....	46 U.S.C. 8103(f) .....	1,177	1.01636	1,196

TABLE 4—U.S. COAST GUARD CIVIL PENALTIES ADJUSTMENTS—Continued

Penalty name	Citation	Penalty amount as adjusted in the 2016 IFR	Multiplier *	New penalty as adjusted by this final rule
Watches on Vessels; Violation of 8104(a) or (b).	46 U.S.C. 8104(i) .....	17,816	1.01636	18,107
Watches on Vessels; Violation of 8104(c), (d), (e), or (h).	46 U.S.C. 8104(j) .....	17,816	1.01636	18,107
Staff Department on Vessels .....	46 U.S.C. 8302(e) .....	235	1.01636	239
Officer's Competency Certificates .....	46 U.S.C. 8304(d) .....	235	1.01636	239
Coastwise Pilotage; Owner, Charterer, Managing Operator, Agent, Master or Individual in Charge.	46 U.S.C. 8502(e) .....	17,816	1.01636	18,107
Coastwise Pilotage; Individual .....	46 U.S.C. 8502(f) .....	17,816	1.01636	18,107
Federal Pilots .....	46 U.S.C. 8503 .....	56,467	1.01636	57,391
Merchant Mariners Documents .....	46 U.S.C. 8701(d) .....	1,177	1.01636	1,196
Crew Requirements .....	46 U.S.C. 8702(e) .....	17,816	1.01636	18,107
Small Vessel Manning .....	46 U.S.C. 8906 .....	37,561	1.01636	38,175
Pilotage: Great Lakes; Owner, Charterer, Managing Operator, Agent, Master or Individual in Charge.	46 U.S.C. 9308(a) .....	17,816	1.01636	18,107
Pilotage: Great Lakes; Individual .....	46 U.S.C. 9308(b) .....	17,816	1.01636	18,107
Pilotage: Great Lakes; Violation of 9303 .....	46 U.S.C. 9308(c) .....	17,816	1.01636	18,107
Failure to Report Sexual Offense .....	46 U.S.C. 10104(b) .....	9,468	1.01636	9,623
Pay Advances to Seamen .....	46 U.S.C. 10314(a)(2) .....	1,177	1.01636	1,196
Pay Advances to Seamen; Remuneration for Employment.	46 U.S.C. 10314(b) .....	1,177	1.01636	1,196
Allotment to Seamen .....	46 U.S.C. 10315(c) .....	1,177	1.01636	1,196
Seamen Protection; General .....	46 U.S.C. 10321 .....	8,162	1.01636	8,296
Coastwise Voyages: Advances .....	46 U.S.C. 10505(a)(2) .....	8,162	1.01636	8,296
Coastwise Voyages: Advances; Remuneration for Employment.	46 U.S.C. 10505(b) .....	8,162	1.01636	8,296
Coastwise Voyages: Seamen Protection; General.	46 U.S.C. 10508(b) .....	8,162	1.01636	8,296
Effects of Deceased Seamen .....	46 U.S.C. 10711 .....	471	1.01636	479
Complaints of Unfitness .....	46 U.S.C. 10902(a)(2) .....	1,177	1.01636	1,196
Proceedings on Examination of Vessel .....	46 U.S.C. 10903(d) .....	235	1.01636	239
Permission to Make Complaint .....	46 U.S.C. 10907(b) .....	1,177	1.01636	1,196
Accommodations for Seamen .....	46 U.S.C. 11101(f) .....	1,177	1.01636	1,196
Medicine Chests on Vessels .....	46 U.S.C. 11102(b) .....	1,177	1.01636	1,196
Destitute Seamen .....	46 U.S.C. 11104(b) .....	235	1.01636	239
Wages on Discharge .....	46 U.S.C. 11105(c) .....	1,177	1.01636	1,196
Log Books; Master Failing to Maintain .....	46 U.S.C. 11303(a) .....	471	1.01636	479
Log Books; Master Failing to Make Entry .....	46 U.S.C. 11303(b) .....	471	1.01636	479
Log Books; Late Entry .....	46 U.S.C. 11303(c) .....	353	1.01636	359
Carrying of Sheath Knives .....	46 U.S.C. 11506 .....	118	1.01636	120
Vessel Documentation .....	46 U.S.C. 12151(a)(1) .....	15,423	1.01636	15,675
Documentation of Vessels—Related to Activities involving mobile offshore drilling units.	46 U.S.C. 12151 (a)(2) .....	25,705	1.01636	26,126
Vessel Documentation; Fishery Endorsement	46 U.S.C. 12151(c) .....	117,858	1.01636	119,786
Numbering of Undocumented Vessels—Willful violation.	46 U.S.C. 12309(a) .....	11,774	1.01636	11,967
Numbering of Undocumented Vessels .....	46 U.S.C. 12309(b) .....	2,355	1.01636	2,394
Vessel Identification System .....	46 U.S.C. 12507(b) .....	19,787	1.01636	20,111
Measurement of Vessels .....	46 U.S.C. 14701 .....	43,126	1.01636	43,832
Measurement; False Statements .....	46 U.S.C. 14702 .....	43,126	1.01636	43,832
Commercial Instruments and Maritime Liens	46 U.S.C. 31309 .....	19,787	1.01636	20,111
Commercial Instruments and Maritime Liens; Mortgagor.	46 U.S.C. 31330(a)(2) .....	19,787	1.01636	20,111
Commercial Instruments and Maritime Liens; Violation of 31329.	46 U.S.C. 31330(b)(2) .....	49,467	1.01636	50,276
Port Security .....	46 U.S.C. 70119(a) .....	32,796	1.01636	33,333
Port Security—Continuing Violations .....	46 U.S.C. 70119(b) .....	58,929	1.01636	59,893
Maritime Drug Law Enforcement .....	46 U.S.C. 70506(c) .....	5,437	1.01636	5,526
Hazardous Materials: Related to Vessels .....	49 U.S.C. 5123(a)(1) .....	77,114	1.01636	78,376
Hazardous Materials: Related to Vessels—Penalty from Fatalities, Serious Injuries/Illness or substantial Damage to Property.	49 U.S.C. 5123(a)(2) .....	179,933	1.01636	182,877
Hazardous Materials: Related to Vessels; Training.	49 U.S.C. 5123(a)(3) .....	463	1.01636	471

\* OMB, Implementation of the 2017 annual adjustment pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, December 16, 2016. [https://www.whitehouse.gov/sites/default/files/omb/memoranda/2017/m-17-11\\_0.pdf](https://www.whitehouse.gov/sites/default/files/omb/memoranda/2017/m-17-11_0.pdf).

\*\* Exempt as under the Tariff Act.

### E. Transportation Security Administration

The Transportation Security Administration (TSA) is updating its civil penalties regulation in accordance with the 2015 Act. Pursuant to its statutory authority in 49 U.S.C. 114(v), TSA may impose penalties for

violations of any statute that TSA administers, whether an implementing regulation or order imposes the penalty.<sup>6</sup> TSA assesses these penalties for a wide variety of aviation and surface security requirements, including violations of TSA's requirements applicable to Transportation Worker Identification Credentials (TWIC),<sup>7</sup> as

well as violations of requirements described in chapter 449 of title 49 of the United States Code. These penalties can apply to a wide variety of situations, as described in the statutory and regulatory provisions, as well as in guidance that TSA publishes. Below is a table showing the 2017 adjustment for the penalties that TSA administers.

TABLE 5—TRANSPORTATION SECURITY ADMINISTRATION CIVIL PENALTIES ADJUSTMENTS

Penalty name	Citation	Penalty amount as adjusted in the 2016 IFR	Multiplier*	New penalty as adjusted by this final rule
Violation of 49 U.S.C. ch. 449 (except secs. 44902, 44903(d), 44907(a)–(d)(1)(A), 44907(d)(1)(C)–(f), 44908, and 44909), or 49 U.S.C. 46302 or 46303, a regulation prescribed, or order issued thereunder by a person operating an aircraft for the transportation of passengers or property for compensation.	49 U.S.C. 46301(a)(1), (4); 49 CFR 1503.401(c)(2).	\$32,140 (up to a total of \$514,244 per civil penalty action).	1.01636	\$32,666 (up to a total of \$522,657 per civil penalty action).
Violation of 49 U.S.C. ch. 449 (except secs. 44902, 44903(d), 44907(a)–(d)(1)(A), 44907(d)(1)(C)–(f), 44908, and 44909), or 49 U.S.C. 46302 or 46303, a regulation prescribed, or order issued thereunder by an individual (except an airman serving as an airman), any person not operating an aircraft for the transportation of passengers or property for compensation, or a small business concern.	49 U.S.C. 46301(a)(1), (4); 49 CFR 1503.401(c)(1).	\$12,856 (up to a total of \$64,281 total for small businesses, \$514,244 for others).	1.01636	\$13,066 (up to a total of \$65,333 total for small business, \$522,657 for others).
Violation of any other provision of title 49 U.S.C. or of 46 U.S.C. ch. 701, a regulation prescribed, or order issued thereunder.	49 U.S.C. 114(v); 49 CFR 1503.401(b).	\$11,002 (up to a total of \$55,010 total for small businesses, \$440,080 for others).	1.01636	\$11,182 (up to a total of \$55,910 total for small businesses, \$447,280 for others).

\* OMB, Implementation of the 2017 annual adjustment pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, December 16, 2016. [https://www.whitehouse.gov/sites/default/files/omb/memoranda/2017/m-17-11\\_0.pdf](https://www.whitehouse.gov/sites/default/files/omb/memoranda/2017/m-17-11_0.pdf).

### IV. Discussion of Public Comments

DHS did not receive any public comments on the IFR.

### V. Administrative Procedure Act

The Administrative Procedure Act (APA) generally requires agencies to publish a notice of proposed rulemaking in the **Federal Register** (5 U.S.C. 553(b)) and to provide interested persons with the opportunity to submit comments (5 U.S.C. 553(c)). The APA also requires agencies to provide a delayed effective date (of not less than 30 days) for substantive rules. 5 U.S.C. 553(d). The APA, however, provides an exception to the notice and public comment requirements where the “agency for good cause finds . . . that notice and public procedure thereon are impracticable, unnecessary, or contrary to public interest.” 5 U.S.C. 553(b)(B).

As discussed in the preamble to the IFR, DHS issued the IFR pursuant to the

“good cause” exception in the APA. With respect to this Final Rule and future required annual adjustments, the 2015 Act, specifically instructed that agencies are to make the required annual adjustments notwithstanding section 553 of title 5 of the United States Code.

DHS is promulgating this Final Rule to ensure that the amount of civil penalties that DHS assesses or enforces reflects the statutorily mandated ranges as adjusted for inflation. The 2015 Act provides a clear formula for adjustment of the civil penalties, leaving DHS and its components with little room for discretion. DHS and its components have been charged only with performing ministerial computations to determine the amounts of adjustments for inflation to civil monetary penalties. Accordingly, and as specified in the 2015 Act, the prior public notice and comment procedures and delayed

effective date requirements of the APA do not apply to this rule.

As described in Section I above, the 2015 Act requires agencies to make annual adjustments to civil monetary penalties no later than January 15 of each year and to publish the adjustments in the **Federal Register**. DHS intends to make future annual inflation adjustments by publication of a Final Rule, notwithstanding section 553 of title 5 of the United States Code including the notice-and-comment and delayed effective date requirements of the APA. In future annual adjustments, DHS will merely need to update the penalty amounts by applying the cost-of-living adjustment multiplier that OMB provides to agencies. Accordingly, DHS will publish a Final Rule, notwithstanding section 553 of title 5 of the United States Code, that provides a table with the adjusted penalty amounts

<sup>6</sup> See 49 U.S.C. 114(v), as amended by sec. 1302 of the Implementing Recommendations of the 9/11

Commission Act of 2007 (Pub. L. 110–53, 121 Stat. 266 (Aug. 3, 2007)).

<sup>7</sup> See, e.g., 46 U.S.C. 70105, 49 U.S.C. 46302 and 46303, and U.S.C. ch. 449.



and that updates the numbers in the regulatory text accordingly.

## VI. Regulatory Analyses

### A. Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. OMB has not designated this Final Rule a “significant regulatory action” under section 3(f) of Executive Order 12866. Accordingly, OMB has not reviewed this rule.

This Final Rule makes nondiscretionary adjustments to existing civil monetary penalties in accordance with the 2015 Act and OMB guidance.<sup>8</sup> DHS therefore did not consider alternatives and does not have the flexibility to alter the adjustments of the civil monetary penalty amounts as provided in this rule. To the extent this Final Rule increases civil monetary penalties, it would result in an increase in transfers from persons or entities assessed a civil monetary penalty to the government.

### B. Regulatory Flexibility Act

The Regulatory Flexibility Act applies only to rules for which an agency publishes a notice of proposed rulemaking pursuant to 5 U.S.C. 553(b). See 5 U.S.C. 601–612. The Regulatory Flexibility Act does not apply to this Final Rule, because a notice of proposed rulemaking was not required for the reasons stated above.

### C. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531–1538, requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or Tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. This Final Rule will not result in such an expenditure.

<sup>8</sup> OMB, Implementation of the 2017 annual adjustment pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, December 16, 2016. [https://www.whitehouse.gov/sites/default/files/omb/memoranda/2017/m-17-11\\_0.pdf](https://www.whitehouse.gov/sites/default/files/omb/memoranda/2017/m-17-11_0.pdf).

### D. Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this Final Rule, because this Final Rule does not trigger any new or revised recordkeeping or reporting.

### List of Subjects

#### 6 CFR Part 27

Reporting and recordkeeping requirements, Security measures.

#### 8 CFR Part 270

Administrative practice and procedure, Aliens, Employment, Fraud, Penalties.

#### 8 CFR Part 274a

Administrative practice and procedure, Aliens, Employment, Penalties, Reporting and recordkeeping requirements.

#### 8 CFR Part 280

Administrative practice and procedure, Immigration, Penalties.

#### 33 CFR Part 27

Administrative practice and procedure, Penalties.

#### 49 CFR Part 1503

Administrative practice and procedure, Investigations, Law enforcement, Penalties.

### Amendments to the Regulations

Accordingly, for the reasons stated in the preamble, the interim rule amending 6 CFR part 27, 8 CFR parts 270, 274a, and 280, 33 CFR part 27, and 49 CFR part 1503, which was published at 81 FR 42987 on July 1, 2016, is adopted as a final rule with the following changes:

### Title 6—Domestic Security

#### PART 27—CHEMICAL FACILITY ANTI-TERRORISM STANDARDS

■ 1. The authority citation for part 27 continues to read as follows:

**Authority:** 6 U.S.C. 624; Public Law 101–410, 104 Stat. 890, as amended by Public Law 114–74, 129 Stat. 599.

■ 2. In § 27.300, revise paragraph (b)(3) to read as follows:

#### § 27.300 Orders.

\* \* \* \* \*

(b) \* \* \*

(3) Where the Assistant Secretary determines that a facility is in violation of an Order issued pursuant to paragraph (a) of this section and issues an Order Assessing Civil Penalty pursuant to paragraph (b)(1) of this

section, a chemical facility is liable to the United States for a civil penalty of not more than \$25,000 for each day during which the violation continues, if the violation of the Order occurred on or before November 2, 2015, or \$33,333 for each day during which the violation of the Order continues, if the violation occurred after November 2, 2015.

\* \* \* \* \*

### Title 8—Aliens and Nationality

#### PART 270—PENALTIES FOR DOCUMENT FRAUD

■ 3. The authority citation for part 270 continues to read as follows:

**Authority:** 8 U.S.C. 1101, 1103, and 1324c; Public Law 101–410, 104 Stat. 890, as amended by Public Law 104–134, 110 Stat. 1321 and Public Law 114–74, 129 Stat. 599.

■ 4. In § 270.3, revise paragraphs (b)(1)(ii)(A), (B), (C), and (D) to read as follows:

#### § 270.3 Penalties.

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(ii) \* \* \*

(A) *First offense under section 274C(a)(1) through (a)(4).* Not less than \$275 and not exceeding \$2,200 for each fraudulent document or each proscribed activity described in section 274C(a)(1) through (a)(4) of the Act on or after March 27, 2008 and on or before November 2, 2015; and not less than \$452 and not exceeding \$3,621 for each fraudulent document or each proscribed activity described in section 274C(a)(1) through (a)(4) of the Act after November 2, 2015.

(B) *First offense under section 274C(a)(5) or (a)(6).* Not less than \$250 and not exceeding \$2,000 for each fraudulent document or each proscribed activity described in section 274C(a)(5) or (a)(6) of the Act before March 27, 2008; not less than \$275 and not exceeding \$2,200 for each fraudulent document or each proscribed activity described in section 274C(a)(5) or (a)(6) of the Act on or after March 27, 2008 and on or before November 2, 2015; and not less than \$382 and not exceeding \$3,054 for each fraudulent document or each proscribed activity described in section 274C(a)(5) or (a)(6) of the Act after November 2, 2015.

(C) *Subsequent offenses under section 274C(a)(1) through (a)(4).* Not less than \$2,200 and not more than \$5,500 for each fraudulent document or each

proscribed activity described in section 274C(a)(1) through (a)(4) of the Act before March 27, 2008; not less than \$3,200 and not exceeding \$6,500 for each fraudulent document or each proscribed activity described in section 274C(a)(1) through (a)(4) of the Act occurring on or after March 27, 2008 and on or before November 2, 2015; and not less than \$3,621 and not more than \$9,054 for each fraudulent document or each proscribed activity described in section 274C(a)(1) through (a)(4) of the Act after November 2, 2015.

(D) *Subsequent offenses under section 274C(a)(5) or (a)(6)*. Not less than \$2,000 and not more than \$5,000 for each fraudulent document or each proscribed activity described in section 274C(a)(5) or (a)(6) of the Act before March 27, 2008; not less than \$2,200 and not exceeding \$5,500 for each fraudulent document or each proscribed activity described in section 274C(a)(5) or (a)(6) of the Act occurring on or after March 27, 2008 and on or before November 2, 2015; and not less than \$3,054 and not more than \$7,635 for each fraudulent document or each proscribed activity described in section 274C(a)(5) or (a)(6) of the Act after November 2, 2015.

\* \* \* \* \*

**PART 274a—CONTROL OF EMPLOYMENT OF ALIENS**

■ 5. The authority citation for part 274a continues to read as follows:

**Authority:** 8 U.S.C. 1101, 1103, 1324a; 48 U.S.C. 1806; 8 CFR part 2; Public Law 101–410, 104 Stat. 890, as amended by Public Law 114–74, 129 Stat. 599.

■ 6. In § 274a.8, revise paragraph (b) to read as follows:

**§ 274a.8 Prohibition of indemnity bonds.**

\* \* \* \* \*

(b) *Penalty*. Any person or other entity who requires any individual to post a bond or security as stated in this section shall, after notice and opportunity for an administrative hearing in accordance with section 274A(e)(3)(B) of the Act, be subject to a civil monetary penalty of \$1,000 for each violation before September 29, 1999, of \$1,100 for each violation occurring on or after September 29, 1999 but on or before November 2, 2015, and of \$2,191 for each violation occurring after November 2, 2015, and to an administrative order requiring the return to the individual of any amounts received in violation of this section or, if the individual cannot be located, to the general fund of the Treasury.

■ 7. In § 274a.10, revise paragraphs (b)(1)(ii)(A), (B), and (C) and (b)(2) to read as follows:

**§ 274a.10 Penalties.**

\* \* \* \* \*

- (b) \* \* \*
- (1) \* \* \*
- (ii) \* \* \*

(A) First offense—not less than \$275 and not more than \$2,200 for each unauthorized alien with respect to whom the offense occurred before March 27, 2008; not less than \$375 and not exceeding \$3,200, for each unauthorized alien with respect to whom the offense occurred occurring on or after March 27, 2008 and on or before November 2, 2015; and not less than \$548 and not more than \$4,384 for each unauthorized alien with respect to whom the offense occurred occurring after November 2, 2015.

(B) Second offense—not less than \$2,200 and not more than \$5,500 for each unauthorized alien with respect to whom the second offense occurred before March 27, 2008; not less than \$3,200 and not more than \$6,500, for each unauthorized alien with respect to whom the second offense occurred on or after March 27, 2008 and on or before November 2, 2015; and not less than \$4,384 and not more than \$10,957 for each unauthorized alien with respect to whom the second offense occurred after November 2, 2015; or

(C) More than two offenses—not less than \$3,300 and not more than \$11,000 for each unauthorized alien with respect to whom the third or subsequent offense occurred before March 27, 2008; not less than \$4,300 and not exceeding \$16,000, for each unauthorized alien with respect to whom the third or subsequent offense occurred on or after March 27, 2008 and on or before November 2, 2015; and not less than \$6,575 and not more than \$21,916 for each unauthorized alien with respect to whom the third or subsequent offense occurred after November 2, 2015; and

\* \* \* \* \*

(2) A respondent determined by the Service (if a respondent fails to request a hearing) or by an administrative law judge, to have failed to comply with the employment verification requirements as set forth in § 274a.2(b), shall be subject to a civil penalty in an amount of not less than \$100 and not more than \$1,000 for each individual with respect to whom such violation occurred before September 29, 1999; not less than \$110 and not more than \$1,100 for each individual with respect to whom such violation occurred on or after September 29, 1999 and on or before November 2, 2015; and not less than \$220 and not more than \$2,191 for each individual with respect to whom such violation occurred after November 2, 2015. In

determining the amount of the penalty, consideration shall be given to:

- (i) The size of the business of the employer being charged;
- (ii) The good faith of the employer;
- (iii) The seriousness of the violation;
- (iv) Whether or not the individual was an unauthorized alien; and
- (v) The history of previous violations of the employer.

\* \* \* \* \*

**PART 280—IMPOSITION AND COLLECTION OF FINES**

■ 8. The authority citation for part 280 continues to read as follows:

**Authority:** 8 U.S.C. 1103, 1221, 1223, 1227, 1229, 1253, 1281, 1283, 1284, 1285, 1286, 1322, 1323, 1330; 66 Stat. 173, 195, 197, 201, 203, 212, 219, 221–223, 226, 227, 230; Public Law 101–410, 104 Stat. 890, as amended by Public Law 114–74, 129 Stat. 599.

■ 9. Revise § 280.53 to read as follows:

**§ 280.53 Civil monetary penalties inflation adjustment.**

(a) *Statutory authority*. In accordance with the requirements of the Federal Civil Penalties Inflation Adjustment Act of 1990, Public Law 101–410, 104 Stat. 890, as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Public Law 114–74, Sec. 701, 129 Stat. 599, the civil monetary penalties listed in paragraph (b) of this section are adjusted as provided in paragraph (b).

(b) *Adjustment of penalties*. For violations occurring on or before November 2, 2015, the penalty amount prior to adjustment applies. For violations occurring after November 2, 2015, the listed penalties are adjusted as follows:

(1) Section 231(g) of the Act, Penalties for non-compliance with arrival and departure manifest requirements for passengers, crewmembers, or occupants transported on commercial vessels or aircraft arriving to or departing from the United States: From \$1,312 to \$1,333.

(2) Section 234 of the Act, Penalties for non-compliance with landing requirements at designated ports of entry for aircraft transporting aliens: From \$3,563 to \$3,621.

(3) Section 240B(d) of the Act, Penalties for failure to depart voluntarily: From \$1,502 minimum/\$7,512 maximum to \$1,527 minimum/\$7,635 maximum.

(4) Section 243(c)(1)(A) of the Act, Penalties for violations of removal orders relating to aliens transported on vessels or aircraft, under section 241(d) of the Act, or for costs associated with removal under section 241(e) of the Act: From \$3,005 to \$3,054;

(5) Penalties for failure to remove alien stowaways under section 241(d)(2): From \$7,512 to \$7,635.

(6) Section 251(d) of the Act, Penalties for failure to report an illegal landing or desertion of alien crewmen, and for each alien not reported on arrival or departure manifest or lists required in accordance with section 251 of the Act: From \$356 to \$362; and penalties for use of alien crewmen for longshore work in violation of section 251(d) of the Act: From \$8,908 to \$9,054.

(7) Section 254(a) of the Act, Penalties for failure to control, detain, or remove alien crewmen: From \$891 minimum/\$5,345 maximum to \$906 minimum/\$5,432 maximum.

(8) Section 255 of the Act, Penalties for employment on passenger vessels of aliens afflicted with certain disabilities: From \$1,782 to \$1,811.

(9) Section 256 of the Act, Penalties for discharge of alien crewmen: From \$2,672 minimum/\$5,345 maximum to \$2,716 minimum/\$5,432 maximum.

(10) Section 257 of the Act, Penalties for bringing into the United States alien crewmen with intent to evade immigration laws: From \$17,816 maximum to \$18,107 maximum.

(11) Section 271(a) of the Act, Penalties for failure to prevent the unauthorized landing of aliens: From \$5,345 to \$5,432.

(12) Section 272(a) of the Act, Penalties for bringing to the United States aliens subject to denial of admission on a health-related ground: From \$5,345 to \$5,432.

(13) Section 273(b) of the Act, Penalties for bringing to the United States aliens without required documentation: From \$5,345 to \$5,432.

(14) Section 274D of the Act, Penalties for failure to depart: From \$751 to \$763, for each day the alien is in violation.

(15) Section 275(b) of the Act, Penalties for improper entry: From \$75 minimum/\$376 maximum to \$76 minimum/\$382 maximum, for each entry or attempted entry.

**Title 33—Navigation and Navigable Waters**

**PART 27—ADJUSTMENT OF CIVIL MONETARY PENALTIES FOR INFLATION**

■ 10. The authority citation for part 27 continues to read as follows:

**Authority:** Secs. 1–6, Public Law 101–410, 104 Stat. 890, as amended by Sec. 31001(s)(1), Public Law 104–134, as amended by Public Law 114–74; 110 Stat. 1321 (28 U.S.C. 2461 note); Department of Homeland Security Delegation No. 0170.1, sec. 2 (106).

■ 11. Revise § 27.3 to read as follows:

**§ 27.3 Penalty adjustment table.**

Table 1 identifies the statutes administered by the Coast Guard that authorize a civil monetary penalty. The “adjusted maximum penalty” is the maximum penalty authorized by the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, as determined by the Coast Guard. The adjusted civil penalty amounts listed in Table 1 are applicable for penalty assessments issued after January 27, 2017, with respect to violations occurring after November 2, 2015. The applicable civil penalty amounts for violations occurring on or before November 2, 2015, are set forth in previously published regulations amending this part.

TABLE 1—CIVIL MONETARY PENALTY INFLATION ADJUSTMENTS

U.S. Code citation	Civil monetary penalty description	2017 adjusted maximum penalty amount (\$)
14 U.S.C. 88(c)	Saving Life and Property	10,181
14 U.S.C. 88(e)	Saving Life and Property; Intentional Interference with Broadcast	1,045
14 U.S.C. 645(i)	Confidentiality of Medical Quality Assurance Records (first offense)	5,114
14 U.S.C. 645(i)	Confidentiality of Medical Quality Assurance Records (subsequent offenses)	34,095
16 U.S.C. 4711(g)(1)	Aquatic Nuisance Species in Waters of the United States	38,175
19 U.S.C. 70	Obstruction of Revenue Officers by Masters of Vessels	7,623
19 U.S.C. 70	Obstruction of Revenue Officers by Masters of Vessels—Minimum Penalty	1,779
19 U.S.C. 1581(d)	Failure to Stop Vessel When Directed; Master, Owner, Operator or Person in Charge <sup>1</sup>	5,000
19 U.S.C. 1581(d)	Failure to Stop Vessel When Directed; Master, Owner, Operator or Person in Charge—Minimum Penalty <sup>1</sup> .	1,000
33 U.S.C. 471	Anchorage Ground/Harbor Regulations General	11,053
33 U.S.C. 474	Anchorage Ground/Harbor Regulations St. Mary’s River	762
33 U.S.C. 495(b)	Bridges/Failure to Comply with Regulations	27,904
33 U.S.C. 499(c)	Bridges/Drawbridges	27,904
33 U.S.C. 502(c)	Bridges/Failure to Alter Bridge Obstructing Navigation	27,904
33 U.S.C. 533(b)	Bridges/Maintenance and Operation	27,904
33 U.S.C. 1208(a)	Bridge to Bridge Communication; Master, Person in Charge or Pilot	2,033
33 U.S.C. 1208(b)	Bridge to Bridge Communication; Vessel	2,033
33 U.S.C. 1232(a)	PWSA Regulations	90,063
33 U.S.C. 1236(b)	Vessel Navigation: Regattas or Marine Parades; Unlicensed Person in Charge	9,054
33 U.S.C. 1236(c)	Vessel Navigation: Regattas or Marine Parades; Owner Onboard Vessel	9,054
33 U.S.C. 1236(d)	Vessel Navigation: Regattas or Marine Parades; Other Persons	4,527
33 U.S.C. 1321(b)(6)(B)(i)	Oil/Hazardous Substances: Discharges (Class I per violation)	18,107
33 U.S.C. 1321(b)(6)(B)(i)	Oil/Hazardous Substances: Discharges (Class I total under paragraph)	45,268
33 U.S.C. 1321(b)(6)(B)(ii)	Oil/Hazardous Substances: Discharges (Class II per day of violation)	18,107
33 U.S.C. 1321(b)(6)(B)(ii)	Oil/Hazardous Substances: Discharges (Class II total under paragraph)	226,338
33 U.S.C. 1321(b)(7)(A)	Oil/Hazardous Substances: Discharges (per day of violation) Judicial Assessment	45,268
33 U.S.C. 1321(b)(7)(A)	Oil/Hazardous Substances: Discharges (per barrel of oil or unit discharged) Judicial Assessment.	1,811
33 U.S.C. 1321(b)(7)(B)	Oil/Hazardous Substances: Failure to Carry Out Removal/Comply With Order (Judicial Assessment).	45,268
33 U.S.C. 1321(b)(7)(C)	Oil/Hazardous Substances: Failure to Comply with Regulation Issued Under 1321(j) (Judicial Assessment).	45,268

TABLE 1—CIVIL MONETARY PENALTY INFLATION ADJUSTMENTS—Continued

U.S. Code citation	Civil monetary penalty description	2017 adjusted maximum penalty amount (\$)
33 U.S.C. 1321(b)(7)(D) .....	Oil/Hazardous Substances: Discharges, Gross Negligence (per barrel of oil or unit discharged) Judicial Assessment.	5,432
33 U.S.C. 1321(b)(7)(D) .....	Oil/Hazardous Substances: Discharges, Gross Negligence—Minimum Penalty (Judicial Assessment).	181,071
33 U.S.C. 1322(j) .....	Marine Sanitation Devices; Operating .....	7,623
33 U.S.C. 1322(j) .....	Marine Sanitation Devices; Sale or Manufacture .....	20,327
33 U.S.C. 1608(a) .....	International Navigation Rules; Operator .....	14,252
33 U.S.C. 1608(b) .....	International Navigation Rules; Vessel .....	14,252
33 U.S.C. 1908(b)(1) .....	Pollution from Ships; General .....	71,264
33 U.S.C. 1908(b)(2) .....	Pollution from Ships; False Statement .....	14,252
33 U.S.C. 2072(a) .....	Inland Navigation Rules; Operator .....	14,252
33 U.S.C. 2072(b) .....	Inland Navigation Rules; Vessel .....	14,252
33 U.S.C. 2609(a) .....	Shore Protection; General .....	50,276
33 U.S.C. 2609(b) .....	Shore Protection; Operating Without Permit .....	20,111
33 U.S.C. 2716a(a) .....	Oil Pollution Liability and Compensation .....	45,268
33 U.S.C. 3852(a)(1)(A) .....	Clean Hulls; Civil Enforcement .....	41,446
33 U.S.C. 3852(a)(1)(A) .....	Clean Hulls; related to false statements .....	55,263
33 U.S.C. 3852(c) .....	Clean Hulls; Recreational Vessels .....	5,526
42 U.S.C. 9609(a) .....	Hazardous Substances, Releases, Liability, Compensation (Class I) .....	54,789
42 U.S.C. 9609(b) .....	Hazardous Substances, Releases, Liability, Compensation (Class II) .....	54,789
42 U.S.C. 9609(b) .....	Hazardous Substances, Releases, Liability, Compensation (Class II subsequent offense) .....	164,367
42 U.S.C. 9609(c) .....	Hazardous Substances, Releases, Liability, Compensation (Judicial Assessment) .....	54,789
42 U.S.C. 9609(c) .....	Hazardous Substances, Releases, Liability, Compensation (Judicial Assessment subsequent offense).	164,367
46 U.S.C. 80509(a) .....	Safe Containers for International Cargo .....	5,989
46 U.S.C. 70305(c) .....	Suspension of Passenger Service .....	59,893
46 U.S.C. 2110(e) .....	Vessel Inspection or Examination Fees .....	9,054
46 U.S.C. 2115 .....	Alcohol and Dangerous Drug Testing .....	7,370
46 U.S.C. 2302(a) .....	Negligent Operations: Recreational Vessels .....	6,666
46 U.S.C. 2302(a) .....	Negligent Operations: Other Vessels .....	33,333
46 U.S.C. 2302(c)(1) .....	Operating a Vessel While Under the Influence of Alcohol or a Dangerous Drug .....	7,370
46 U.S.C. 2306(a)(4) .....	Vessel Reporting Requirements: Owner, Charterer, Managing Operator, or Agent .....	11,478
46 U.S.C. 2306(b)(2) .....	Vessel Reporting Requirements: Master .....	2,296
46 U.S.C. 3102(c)(1) .....	Immersion Suits .....	11,478
46 U.S.C. 3302(i)(5) .....	Inspection Permit .....	2,394
46 U.S.C. 3318(a) .....	Vessel Inspection; General .....	11,478
46 U.S.C. 3318(g) .....	Vessel Inspection; Nautical School Vessel .....	11,478
46 U.S.C. 3318(h) .....	Vessel Inspection; Failure to Give Notice IAW 3304(b) .....	2,296
46 U.S.C. 3318(i) .....	Vessel Inspection; Failure to Give Notice IAW 3309(c) .....	2,296
46 U.S.C. 3318(j)(1) .....	Vessel Inspection; Vessel ≥1600 Gross Tons .....	22,957
46 U.S.C. 3318(j)(1) .....	Vessel Inspection; Vessel <1600 Gross Tons .....	4,591
46 U.S.C. 3318(k) .....	Vessel Inspection; Failure to Comply with 3311(b) .....	22,957
46 U.S.C. 3318(l) .....	Vessel Inspection; Violation of 3318(b)–3318(f) .....	11,478
46 U.S.C. 3502(e) .....	List/count of Passengers .....	239
46 U.S.C. 3504(c) .....	Notification to Passengers .....	23,933
46 U.S.C. 3504(c) .....	Notification to Passengers; Sale of Tickets .....	1,196
46 U.S.C. 3506 .....	Copies of Laws on Passenger Vessels; Master .....	479
46 U.S.C. 3718(a)(1) .....	Liquid Bulk/Dangerous Cargo .....	59,834
46 U.S.C. 4106 .....	Uninspected Vessels .....	10,055
46 U.S.C. 4311(b)(1) .....	Recreational Vessels (maximum for related series of violations) .....	316,566
46 U.S.C. 4311(b)(1) .....	Recreational Vessels; Violation of 4307(a) .....	6,331
46 U.S.C. 4311(c) .....	Recreational Vessels .....	2,394
46 U.S.C. 4507 .....	Uninspected Commercial Fishing Industry Vessels .....	10,055
46 U.S.C. 4703 .....	Abandonment of Barges .....	1,704
46 U.S.C. 5116(a) .....	Load Lines .....	10,957
46 U.S.C. 5116(b) .....	Load Lines; Violation of 5112(a) .....	21,916
46 U.S.C. 5116(c) .....	Load Lines; Violation of 5112(b) .....	10,957
46 U.S.C. 6103(a) .....	Reporting Marine Casualties .....	38,175
46 U.S.C. 6103(b) .....	Reporting Marine Casualties; Violation of 6104 .....	10,055
46 U.S.C. 8101(e) .....	Manning of Inspected Vessels; Failure to Report Deficiency in Vessel Complement .....	1,811
46 U.S.C. 8101(f) .....	Manning of Inspected Vessels .....	18,107
46 U.S.C. 8101(g) .....	Manning of Inspected Vessels; Employing or Serving in Capacity not Licensed by USCG .....	18,107
46 U.S.C. 8101(h) .....	Manning of Inspected Vessels; Freight Vessel <100 GT, Small Passenger Vessel, or Sailing School Vessel.	2,394
46 U.S.C. 8102(a) .....	Watchmen on Passenger Vessels .....	2,394
46 U.S.C. 8103(f) .....	Citizenship Requirements .....	1,196
46 U.S.C. 8104(i) .....	Watches on Vessels; Violation of 8104(a) or (b) .....	18,107
46 U.S.C. 8104(j) .....	Watches on Vessels; Violation of 8104(c), (d), (e), or (h) .....	18,107

TABLE 1—CIVIL MONETARY PENALTY INFLATION ADJUSTMENTS—Continued

U.S. Code citation	Civil monetary penalty description	2017 adjusted maximum penalty amount (\$)
46 U.S.C. 8302(e)	Staff Department on Vessels	239
46 U.S.C. 8304(d)	Officer's Competency Certificates	239
46 U.S.C. 8502(e)	Coastwise Pilotage; Owner, Charterer, Managing Operator, Agent, Master or Individual in Charge.	18,107
46 U.S.C. 8502(f)	Coastwise Pilotage; Individual	18,107
46 U.S.C. 8503	Federal Pilots	57,391
46 U.S.C. 8701(d)	Merchant Mariners Documents	1,196
46 U.S.C. 8702(e)	Crew Requirements	18,107
46 U.S.C. 8906	Small Vessel Manning	38,175
46 U.S.C. 9308(a)	Pilotage: Great Lakes; Owner, Charterer, Managing Operator, Agent, Master or Individual in Charge.	18,107
46 U.S.C. 9308(b)	Pilotage: Great Lakes; Individual	18,107
46 U.S.C. 9308(c)	Pilotage: Great Lakes; Violation of 9303	18,107
46 U.S.C. 10104(b)	Failure to Report Sexual Offense	9,623
46 U.S.C. 10314(a)(2)	Pay Advances to Seamen	1,196
46 U.S.C. 10314(b)	Pay Advances to Seamen; Remuneration for Employment	1,196
46 U.S.C. 10315(c)	Allotment to Seamen	1,196
46 U.S.C. 10321	Seamen Protection; General	8,296
46 U.S.C. 10505(a)(2)	Coastwise Voyages: Advances	8,296
46 U.S.C. 10505(b)	Coastwise Voyages: Advances; Remuneration for Employment	8,296
46 U.S.C. 10508(b)	Coastwise Voyages: Seamen Protection; General	8,296
46 U.S.C. 10711	Effects of Deceased Seamen	479
46 U.S.C. 10902(a)(2)	Complaints of Unfitness	1,196
46 U.S.C. 10903(d)	Proceedings on Examination of Vessel	239
46 U.S.C. 10907(b)	Permission to Make Complaint	1,196
46 U.S.C. 11101(f)	Accommodations for Seamen	1,196
46 U.S.C. 11102(b)	Medicine Chests on Vessels	1,196
46 U.S.C. 11104(b)	Destitute Seamen	239
46 U.S.C. 11105(c)	Wages on Discharge	1,196
46 U.S.C. 11303(a)	Log Books; Master Failing to Maintain	479
46 U.S.C. 11303(b)	Log Books; Master Failing to Make Entry	479
46 U.S.C. 11303(c)	Log Books; Late Entry	359
46 U.S.C. 11506	Carrying of Sheath Knives	120
46 U.S.C. 12151(a)(1)	Vessel Documentation	15,675
46 U.S.C. 12151(a)(2)	Documentation of Vessels—Related to activities involving mobile offshore drilling units	26,126
46 U.S.C. 12151(c)	Vessel Documentation; Fishery Endorsement	119,786
46 U.S.C. 12309(a)	Numbering of Undocumented Vessels—Willful violation	11,967
46 U.S.C. 12309(b)	Numbering of Undocumented Vessels	2,394
46 U.S.C. 12507(b)	Vessel Identification System	20,111
46 U.S.C. 14701	Measurement of Vessels	43,832
46 U.S.C. 14702	Measurement; False Statements	43,832
46 U.S.C. 31309	Commercial Instruments and Maritime Liens	20,111
46 U.S.C. 31330(a)(2)	Commercial Instruments and Maritime Liens; Mortgagor	20,111
46 U.S.C. 31330(b)(2)	Commercial Instruments and Maritime Liens; Violation of 31329	50,276
46 U.S.C. 70119(a)	Port Security	33,333
46 U.S.C. 70119(b)	Port Security—Continuing Violations	59,893
46 U.S.C. 70506	Maritime Drug Law Enforcement; Penalties	5,526
49 U.S.C. 5123(a)(1)	Hazardous Materials: Related to Vessels—Maximum Penalty	78,376
49 U.S.C. 5123(a)(2)	Hazardous Materials: Related to Vessels—Penalty from Fatalities, Serious Injuries/Illness or Substantial Damage to Property.	182,877
49 U.S.C. 5123(a)(3)	Hazardous Materials: Related to Vessels—Training	471

<sup>1</sup> Enacted under the Tariff Act of 1930, exempt from inflation adjustments.

**Title 49—Transportation**

**PART 1503—INVESTIGATIVE AND ENFORCEMENT PROCEDURES**

■ 12. The authority citation for part 1503 continues to read as follows:

**Authority:** 6 U.S.C. 1142; 18 U.S.C. 6002; 28 U.S.C. 2461 (note); 49 U.S.C. 114, 20109, 31105, 40113–40114, 40119, 44901–44907, 46101–46107, 46109–46110, 46301, 46305,

46311, 46313–46314; Public Law 104–134, as amended by Public Law 114–74.

■ 13. Revise § 1503.401 to read as follows:

**§ 1503.401 Maximum penalty amounts.**

(a) *General.* TSA may assess civil penalties not exceeding the following amounts against a person for the violation of a TSA requirement.

(b) *In general.* Except as provided in paragraph (c) of this section, in the case

of violation of title 49 U.S.C. or 46 U.S.C. chapter 701, or a regulation prescribed or order issued under any of those provisions, TSA may impose a civil penalty in the following amounts:

(1) For violations that occurred on or before November 2, 2015, \$10,000 per violation, up to a total of \$50,000 per civil penalty action, in the case of an individual or small business concern, as defined in section 3 of the Small Business Act (15 U.S.C. 632). For

violations that occurred after November 2, 2015 \$11,182 per violation, up to a total of \$55,910 per civil penalty action, in the case of an individual or small business concern; and

(2) For violations that occurred on or before November 2, 2015, \$10,000 per violation, up to a total of \$400,000 per civil penalty action, in the case of any other person. For violations that occurred after November 2, 2015, \$11,182 per violation, up to a total of \$447,280 per civil penalty action, in the case of any other person.

(c) *Certain aviation related violations.* In the case of a violation of 49 U.S.C. chapter 449 (except sections 44902, 44903(d), 44907(a)–(d)(1)(A), 44907(d)(1)(C)–(f), 44908, and 44909), or 49 U.S.C. 46302 or 46303, or a regulation prescribed or order issued under any of those provisions, TSA may impose a civil penalty in the following amounts:

(1) For violations that occurred on or before November 2, 2015, \$10,000 per violation, up to a total of \$50,000 per civil penalty action, in the case of an individual or small business concern, as defined in section 3 of the Small Business Act (15 U.S.C. 632). For violations that occurred after November 2, 2015, \$13,066 per violation, up to a total of 65,333 per civil penalty action, in the case of an individual (except an airman serving as an airman), or a small business concern.

(2) For violations that occurred on or before November 2, 2015, \$10,000 per violation, up to a total of \$400,000 per civil penalty action, in the case of any other person (except an airman serving as an airman) not operating an aircraft for the transportation of passengers or property for compensation. For violations that occurred after November 2, 2015, \$13,066 per violation, up to a total of \$522,657 per civil penalty action, in the case of any other person (except an airman serving as an airman) not operating an aircraft for the transportation of passengers or property for compensation.

(3) For violations that occurred on or before November 2, 2015, \$25,000 per violation, up to a total of \$400,000 per civil penalty action, in the case of a person operating an aircraft for the transportation of passengers or property for compensation (except an individual serving as an airman). For violations that occurred after November 2, 2015, \$32,666 per violation, up to a total of \$522,657 per civil penalty action, in the case of a person (except an individual serving as an airman) operating an aircraft for the transportation of

passengers or property for compensation.

**Jeh Charles Johnson,**  
*Secretary.*

[FR Doc. 2017–00605 Filed 1–26–17; 8:45 am]

**BILLING CODE 9110–09–P; 9111–14–P; 9111–28–PI  
9110–04–P; 9110–05–P**

## DEPARTMENT OF THE TREASURY

### Office of the Comptroller of the Currency

#### 12 CFR Parts 19 and 109

[Docket ID OCC–2017–0002]

RIN 1557–AE14

#### Rules of Practice and Procedure; Rules of Practice and Procedure in Adjudicatory Proceedings; Civil Money Penalty Inflation Adjustments

**AGENCY:** Office of the Comptroller of the Currency, Treasury.

**ACTION:** Final rule.

**SUMMARY:** The Office of the Comptroller of the Currency (OCC) is amending its rules of practice and procedure for national banks and its rules of practice and procedure in adjudicatory proceedings for Federal savings associations to adjust the maximum amount of each civil money penalty within its jurisdiction to administer to account for inflation. These actions implement the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015.

**DATES:** This rule is effective on January 27, 2017 and is applicable to penalties assessed after January 15, 2017.

**FOR FURTHER INFORMATION CONTACT:** Jean Campbell, Counsel, Legislative and Regulatory Activities Division, (202) 649–5490, or, for persons who are deaf or hard of hearing, TTY, (202) 649–5597, or Alexander Abramovich, Attorney, Enforcement and Compliance Division, (202) 649–6200, Office of the Comptroller of the Currency, 400 7th Street SW., Washington, DC 20219.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The final rule changes the maximum amount for each civil money penalty (CMP) within the OCC's jurisdiction to administer to account for inflation pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 (the 1990 Adjustment Act),<sup>1</sup> as amended by

<sup>1</sup> Public Law 101–410, Oct. 5, 1990, 104 Stat. 890, *codified at 28 U.S.C. 2461 note.*

the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (the 2015 Adjustment Act).<sup>2</sup> The 1990 Adjustment Act had required the OCC and other Federal agencies with CMP authority to publish by regulation the inflation-adjusted maximum amount for each CMP authorized by a law that the agency has jurisdiction to administer. Key features of the 1990 Adjustment Act included requiring such agencies to make inflation adjustments at least once every four years following any initial adjustment, capping the initial inflation adjustment increase at 10 percent, and imposing rounding rules that limited increases based on the amount of the penalty.

The purpose of the 2015 Adjustment Act was to establish a mechanism to regularly adjust CMPs for inflation; maintain the deterrent effect of CMPs and promote compliance with the law; and improve the collection of CMPs by the Federal government.<sup>3</sup> The 2015 Adjustment Act revised the process by which each Federal agency must adjust its CMPs for inflation. Under the 2015 Adjustment Act, agencies were required to adjust the amount of their CMPs<sup>4</sup> for inflation with an initial catch-up adjustment through an interim final rule published by July 1, 2016, and to make subsequent adjustments for inflation by January 15 of each year, beginning in 2017. In addition, the 2015 Adjustment Act simplified the process for calculating the inflation increase and eliminated the complex rounding rules in the 1990 Adjustment Act.

The 2015 Adjustment Act also required the Office of Management and Budget (OMB) to issue initial guidance to Federal agencies no later February 29, 2016, and subsequent guidance not later than December 15 of each year, beginning on December 15, 2016, on implementing the required inflation adjustments.

In accordance with the 2015 Adjustment Act and OMB's initial guidance, issued on February 29, 2016,<sup>5</sup>

<sup>2</sup> Public Law 114–74, Title VII, section 701(b), Nov. 2, 2015, 129 Stat. 599, *codified at 28 U.S.C. 2461 note.*

<sup>3</sup> 28 U.S.C. 2461 note, section 2(b).

<sup>4</sup> The 2015 Adjustment Act defined a “civil monetary penalty” to mean “any penalty, fine, or other sanction that is for a specific monetary amount as provided by Federal law; or has a maximum amount provided for by Federal law; and is assessed or enforced by an agency pursuant to Federal law; and is assessed or enforced pursuant to an administrative proceeding or a civil action in the Federal courts.” 28 U.S.C. 2461 note, section 3(2). Thus, a penalty based on another measure, such as a percentage of total assets, need not be adjusted.

<sup>5</sup> Office of Management and Budget Memorandum, M–16–06 (February 24, 2016),