

and must include a recommended decision, with a statement of reasons.

(iv) *Written appeal.* If the appellant appeals the detention order but does not request a hearing, the presiding FDA official must render a decision on the appeal affirming or revoking the detention order within 5-working days after the receipt of the appeal.

(v) *Presiding FDA official's decision.* If, based on the evidence presented at the hearing or by the appellant in a written appeal, the presiding FDA official finds that the shell eggs were produced or held in violation of this section, he must affirm the order that they be diverted, under the supervision of an officer or employee of FDA for processing under the EPIA or by a treatment that achieves at least a 5-log destruction of SE or destroyed by or under the supervision of an officer or employee of FDA; otherwise, the presiding FDA official must issue a written notice that the prior order is withdrawn. If the presiding FDA official affirms the order, he must order that the diversion or destruction be accomplished within 10-working days from the date of the issuance of his decision. The presiding FDA official's decision must be accompanied by a statement of the reasons for the decision. The decision of the presiding FDA official constitutes final agency action, subject to judicial review.

(vi) *No appeal.* If there is no appeal of the order and the person in possession of the shell eggs that are subject to the order fails to divert or destroy them within 10-working days, or if the demand is affirmed by the presiding FDA official after an appeal and the person in possession of such eggs fails to divert or destroy them within 10-working days, FDA's district office or, if applicable, the State or local representative may designate an officer or employee to divert or destroy such eggs. It shall be unlawful to prevent or to attempt to prevent such diversion or destruction of the shell eggs by the designated officer or employee.

\* \* \* \* \*

**PART 507—CURRENT GOOD MANUFACTURING PRACTICE, HAZARD ANALYSIS, AND RISK-BASED PREVENTIVE CONTROLS FOR FOOD FOR ANIMALS**

■ 15. The authority citation for part 507 continues to read as follows:

**Authority:** 21 U.S.C. 331, 342, 343, 350d note, 350g, 350g note, 371, 374; 42 U.S.C. 243, 264, 271.

■ 16. Revise § 507.75 to read as follows:

**§ 507.75 Residing officer for an appeal and for an informal hearing.**

The presiding officer for an appeal, and for an informal hearing, must be an Office of Regulatory Affairs Program Director or another FDA official senior to an FDA District Director.

**PART 800—GENERAL**

■ 17. The authority citation for part 800 continues to read as follows:

**Authority:** 21 U.S.C. 321, 334, 351, 352, 355, 360e, 360i, 360k, 361, 362, 371.

■ 18. Amend § 800.55 by revising paragraphs (g)(3)(iv) and (g)(4) to read as follows:

**§ 800.55 Administrative detention.**

\* \* \* \* \*

(g) \* \* \*

(3) \* \* \*

(iv) Paragraph (g)(4) of this section, rather than § 16.42(a) of this chapter, describes the FDA employees, *i.e.*, Office of Regulatory Affairs Program Directors or other FDA officials senior to an FDA District Director, who preside at hearings under this section.

(4) The presiding officer of a regulatory hearing on an appeal of a detention order, who also shall decide the appeal, shall be an Office of Regulatory Affairs Program Director or another FDA official senior to an FDA District Director who is permitted by § 16.42(a) of this chapter to preside over the hearing.

\* \* \* \* \*

Dated: March 13, 2017.

**Leslie Kux,**

*Associate Commissioner for Policy.*

[FR Doc. 2017-05350 Filed 3-16-17; 8:45 am]

**BILLING CODE 4164-01-P**

**DEPARTMENT OF HOMELAND SECURITY**

[CIS No. 2585-16]

RIN 1615-AC10

**DEPARTMENT OF LABOR**

**Wage and Hour Division**

29 CFR Part 503

RIN 1235-AA16

**Department of Homeland Security and Department of Labor Federal Civil Penalties Inflation Adjustment Act Annual Adjustments for the H-2B Temporary Non-agricultural Worker Program**

**AGENCY:** Department of Homeland Security; Wage and Hour Division, Department of Labor.

**ACTION:** Final rule.

**SUMMARY:** The U.S. Department of Homeland Security (DHS) and the U.S. Department of Labor (DOL) (collectively, “the Departments”) are jointly issuing this final rule to adjust for inflation the civil monetary penalties assessed or enforced in connection with the employment of temporary nonimmigrant workers under the H-2B program, pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Inflation Adjustment Act). The Inflation Adjustment Act provides that agencies shall adjust civil monetary penalties notwithstanding Section 553 of the Administrative Procedure Act (APA). Additionally, the Inflation Adjustment Act provides a cost-of-living formula for adjustment of the civil penalties. Accordingly, this final rule sets forth the Departments’ 2017 annual adjustments for inflation to the H-2B civil monetary penalties, effective March 17, 2017.

**DATES:** This final rule is effective March 17, 2017. As provided by the Inflation Adjustment Act, the increased penalty levels apply to any penalties assessed after March 17, 2017.

**FOR FURTHER INFORMATION CONTACT:** Pamela Peters, Program Analyst, U.S. Department of Labor, Room S-2312, 200 Constitution Avenue NW., Washington, DC 20210; telephone: (202) 693-5959 (this is not a toll-free number). Copies of this final rule may be obtained in alternative formats (large print, Braille, audio tape or disc), upon request, by calling (202) 693-5959 (this is not a toll-free number). TTY/TDD callers may dial toll-free 1-877-889-5627 to obtain information or request materials in alternative formats.

**SUPPLEMENTARY INFORMATION:**

**I. Regulatory Information**

The Inflation Adjustment Act required agencies to: (1) Adjust the level of civil monetary penalties with an initial “catch-up” adjustment through an interim final rule (IFR); and (2) make subsequent annual adjustments for inflation. Agencies are required to publish an annual inflation adjustment no later than January 15, 2017, and by January 15 of each subsequent year.

On July 1, 2016, the Departments established the initial catch-up adjustment for civil monetary penalties assessed or enforced in connection with the employment of temporary nonimmigrant workers under the H-2B

program. See 81 FR 42983 (IFR).<sup>1</sup> This final rule reflects that the Departments did not receive any public comments on the jointly-issued IFR and so did not make any changes to the civil monetary penalty amounts established in the IFR based on comments received. For that reason, this rule is being issued jointly by DOL and DHS. As explained in the IFR, DOL will make future adjustments to the H–2B civil monetary penalties consistent with DOL’s delegated authority under 8 U.S.C. 1184(c)(14), Immigration and Nationality Act section 214(c)(14), and the Inflation Adjustment Act. See 81 FR 42985 n.2. DOL will make the first such adjustment in 2018.

Agencies are required to calculate the annual adjustment based on the Consumer Price Index for all Urban Consumers (CPI–U). Annual inflation adjustments are based on the percent change between the October CPI–U preceding the date of the adjustment, and the prior year’s October CPI–U; in this case, the percent change between the October 2016 CPI–U and the October 2015 CPI–U. The cost-of-living adjustment multiplier for 2017, based on the Consumer Price Index (CPI–U) for the month of October 2016, not seasonally adjusted, is 1.01636.<sup>2</sup> In order to complete the 2017 annual adjustment, the Departments multiplied

the most recent H–2B maximum civil monetary penalty amounts by the multiplier, 1.01636, and rounded to the nearest dollar.

As provided by the Inflation Adjustment Act, the increased penalty levels apply to any penalties assessed after the effective date of this rule. Accordingly, for penalties assessed after March 17, 2017, whose associated violations occurred after November 2, 2015, the higher penalty amounts outlined in this rule will apply. The chart below demonstrates the penalty amounts that apply:

Violations occurring	Penalty assessed	Which penalty level applies
On or before November 2, 2015 .....	On or before August 1, 2016 .....	Pre-August 1, 2016 levels.
On or before November 2, 2015 .....	After August 1, 2016 .....	Pre-August 1, 2016 levels.
After November 2, 2015 .....	After August 1, 2016, but on or before March 17, 2017 .....	August 1, 2016 levels.
After November 2, 2015 .....	After March 17, 2017 .....	March 17, 2017 levels.

**II. Paperwork Reduction Act**

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the Departments consider the impact of paperwork and other information collection burdens imposed on the public. The Departments have determined that this final rule does not require any collection of information.

**III. Administrative Procedure Act**

The Inflation Adjustment Act provides that agencies shall annually adjust civil monetary penalties for inflation notwithstanding Section 553 of the Administrative Procedure Act (APA). Additionally, the Inflation Adjustment Act provides a nondiscretionary clear formula for annual adjustment of the civil monetary penalties. For these reasons, the requirements in sections 553(b), (c), and (d) of the APA, relating to notice and comment and requiring that a rule be effective at least 30 days after publication in the **Federal Register**, are inapplicable.

**IV. Executive Orders 12866: Regulatory Planning and Review; and Executive Order 13563: Improving Regulation and Regulatory Review**

Executive Order 12866 requires that regulatory agencies assess both the costs and benefits of significant regulatory actions. Under the Executive Order, a “significant regulatory action” is one meeting any of a number of specified conditions, including the following:

Having an annual effect on the economy of \$100 million or more; creating a serious inconsistency or interfering with an action of another agency; materially altering the budgetary impact of entitlements or the rights of entitlement recipients, or raising novel legal or policy issues.

The Departments have determined that this final rule is not a “significant” regulatory action and a cost-benefit and economic analysis is not required. This regulation merely adjusts civil monetary penalties in accordance with inflation as required by the Inflation Adjustment Act, and has no impact on disclosure or compliance costs. The benefit provided by the inflationary adjustment to the maximum civil monetary penalties is that of maintaining the incentive for the regulated community to comply with the laws enforced by the Departments, and not allowing the incentive to be diminished by inflation. 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.

Executive Order 13563 directs agencies to assess all 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, reducing costs, harmonizing rules, and promoting flexibility to minimize burden.

By mandating inflation adjustments consistent with a non-discretionary, clear formula, Congress has already determined that any possible increase in costs is justified by the overall benefits of such adjustments. This final rule makes only the statutory changes outlined herein; thus there are no alternatives or further analysis required by E.O. 13563.

**V. Regulatory Flexibility Act and Small Business Regulatory Enforcement Fairness Act**

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* (RFA), imposes certain requirements on Federal agency rules that are subject to the notice and comment requirements of the APA, 5 U.S.C. 553(b). This final rule is exempt from the requirements of the APA because the Inflation Adjustment Act directed the Departments to issue the annual adjustments without regard to Section 553 of the APA. Therefore, the requirements of the RFA applicable to final rules, 5 U.S.C. 604, do not apply to this final rule. Accordingly, the Departments are not required to either certify that the final rule would not have a significant economic impact on a substantial number of small entities or conduct a regulatory flexibility analysis.

<sup>1</sup> The Departments incorporate by reference the preamble to the July 2016 IFR. See 81 FR 42983–42986.

<sup>2</sup> OMB provided the year-over-year multiplier, rounded to 5 decimal points. See M–17–11, Implementation of the 2017 annual adjustment

pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Dec 16, 2016).

**VI. Environmental Impact Assessment**

This action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This action is therefore categorically excluded from further review under the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321–4375.

**List of Subjects in 29 CFR Part 503**

Administrative practice and procedure, Aliens, Employment, Housing, Immigration, Labor, Penalties, Transportation, Wages.

Accordingly, for the reasons set out in the preamble, 29 CFR part 503 is amended as follows:

**Title 29—Labor**

**PART 503—ENFORCEMENT OF OBLIGATIONS FOR TEMPORARY NONIMMIGRANT NON-AGRICULTURAL WORKERS DESCRIBED IN THE IMMIGRATION AND NATIONALITY ACT**

■ 1. The authority citation for part 503 continues to read as follows:

**Authority:** 8 U.S.C. 1101(a)(15)(H)(ii)(b); 8 U.S.C. 1184; 8 CFR 214.2(h); 28 U.S.C. 2461 note (Federal Civil Penalties Inflation Adjustment Act of 1990); Pub. L. 114–74 at § 701.

**§ 503.23 [Amended]**

■ 2. In the table below for § 503.23, for each paragraph indicated in the left column, remove the dollar amount indicated in the middle column from wherever it appears in the paragraph, and add in its place the dollar amount indicated in the right column:

Paragraph	Remove	Add
(b) .....	\$11,940	\$12,135
(c) .....	11,940	12,135
(d) .....	11,940	12,135

**John F. Kelly,**

*Secretary of Homeland Security.*

**Edward C. Hugler,**

*Acting Secretary of Labor.*

[FR Doc. 2017–05178 Filed 3–16–17; 8:45 am]

**BILLING CODE 4510–27–P; 9111–97–P**

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 165**

[Docket No. USCG–2017–0132]

**RIN 1625–AA00**

**Safety Zone; Annual Events Requiring Safety Zones in the Captain of the Port Lake Michigan Zone—St. Patrick’s Day Fireworks**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of enforcement of regulation.

**SUMMARY:** The Coast Guard will enforce the safety zone on the Manitowoc River in Manitowoc, WI for the St. Patrick’s Day Fireworks on March 17, 2017. This action is necessary and intended to ensure safety of life on navigable waters immediately prior to, during, and after the fireworks display. During the aforementioned period, the Coast Guard will enforce restrictions upon, and control movement of, vessels in the safety zone. No person or vessel may enter the safety zone while it is being enforced without permission of the Captain of the Port Lake Michigan or a designated representative.

**DATES:** The regulations in 33 CFR 165.929 will be enforced for safety zone (a)(1), Table 165.929, from 6:15 p.m. until 7:15 p.m. on March 17, 2017.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this document, call or email marine event coordinator, Prevention Department, Coast Guard Sector Lake Michigan, Milwaukee, WI at (414) 747–7148, email *D09-SMB-SECLakeMichigan-WWM@uscg.mil*.

**SUPPLEMENTARY INFORMATION:** The Coast Guard will enforce the St. Patrick’s Day Fireworks safety zone listed as item (a)(1) in Table 165.929 of 33 CFR 165.929. Section 165.929 lists many annual events requiring safety zones in the Captain of the Port Lake Michigan zone. This safety zone will encompass all waters of the Manitowoc River within the arc of a circle with a 250-foot radius from a center point launch position at 44°05.492’ N., 087°39.332’ W. (NAD 83). As specified in 33 CFR 165.929, all vessels must obtain permission from the Captain of the Port Lake Michigan or a designated representative to enter, move within, or exit the safety zone when it is enforced. Vessels and persons granted permission to enter the safety zone must obey all lawful orders or directions of the Captain of the Port Lake Michigan or a designated representative.

This document is issued under authority of 33 CFR 165.929, Safety Zones; Annual events requiring safety zones in the Captain of the Port Lake Michigan zone, and 5 U.S.C. 552(a). In addition to this publication in the **Federal Register**, the Coast Guard plans to provide the maritime community with advance notification for the enforcement of this zone via Broadcast Notice to Mariners or Local Notice to Mariners. The Captain of the Port Lake Michigan or a representative may be contacted via Channel 16, VHF–FM.

Dated: March 10, 2017.

**A.B. Cocanour,**

*Captain, U.S. Coast Guard, Captain of the Port Lake Michigan.*

[FR Doc. 2017–05418 Filed 3–16–17; 8:45 am]

**BILLING CODE 9110–04–P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 300**

[EPA–HQ–SFUND–1983–0002; FRL–9958–96–Region 4]

**National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Deletion of the Perdido Ground Water Contamination Superfund Site**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency Region 4 is publishing this direct final Notice of Deletion for the Perdido Ground Water Contamination Superfund Site (Site), located in Perdido, Baldwin County, Alabama, from the National Priorities List (NPL). The NPL, promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final deletion is being published by the EPA with the concurrence of the State of Alabama, through the Alabama Department of Environmental Management (ADEM), because the EPA has determined that all appropriate response actions under CERCLA have been completed. However, this deletion does not preclude future actions under Superfund.

**DATES:** This direct final deletion is effective May 16, 2017 unless the EPA receives adverse comments by April 17, 2017. If adverse comments are received,