

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**

RIN 1601-AA80

[Docket No. DHS-2016-0034]

Civil Monetary Penalty Adjustments for Inflation**AGENCY:** Department of Homeland Security.**ACTION:** Interim final rule with request for comments.

SUMMARY: This rule amends Department of Homeland Security (DHS or Department) regulations to adjust DHS and component civil monetary penalties for inflation. DHS calculated the adjusted penalties according to the statutory formula in the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, which was signed into law on November 2, 2015. The adjusted penalties will be effective for civil penalties assessed after August 1, 2016 whose associated violations occurred after November 2, 2015.

DATES: *Effective Date.* This rule is effective on August 1, 2016.

Comment Date: Comments must be received on or before August 1, 2016.

ADDRESSES: You may submit comments, identified by docket number DHS-2016-0034, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Mail:* Megan Westmoreland, Office of the General Counsel, U.S. Department of Homeland Security, 245 Murray Lane SW., Mail Stop 0485, Washington, DC 20528-0485.

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

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I. 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)) (the 2015 Act),¹ which further amended the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note) (the Inflation Adjustment Act), to improve the effectiveness of civil monetary penalties and to maintain their deterrent effect. The 2015 Act requires 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.

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 is not adjusting those civil penalties in this rulemaking.

The 2015 Act applies the new penalty amounts to all penalties that DHS assesses after August 1, 2016, the effective date of this rule. Additionally, pursuant to 28 U.S.C. 2461 note sec. 6, as amended by the 2015 Act, DHS will apply the adjusted penalty amounts for any violations that occurred after November 2, 2015 (*i.e.*, the date the 2015 Act was signed into law) as long as the penalty is assessed after the effective date of this interim final rule.

The 2015 Act provides a new method for calculating inflation adjustments. The new method differs substantially from the methods that agencies used in the past when conducting inflation adjustments pursuant to the 1990 Inflation Adjustment Act. The new method is intended to more accurately reflect inflation. Previously, when agencies conducted adjustments to civil penalties, they did so under rules that

required significant rounding of figures. For example, an agency would round a penalty increase that was greater than \$1,000, but less than or equal to \$10,000, to the nearest multiple of \$1,000. While this allowed penalties to be kept at round numbers, it meant that agencies would often not increase penalties at all if the inflation factor was not large enough. Furthermore, increases to penalties were capped at 10 percent, which meant that longer periods without an inflation adjustment could cause a penalty to rapidly lose value in real terms. Over time, the formula used in the 1990 Inflation Adjustment Act calculations frequently caused penalties to lose value relative to actual inflation. The 2015 Act removed these rounding rules, and instead instructs agencies to round penalties to the nearest \$1. While this creates penalty values that are no longer round numbers, it does ensure that agencies will increase penalties each year to a figure commensurate with the actual calculated inflation.

To better reflect the original impact of civil penalties, the 2015 Act “resets” the inflation calculations by excluding prior inflationary adjustments under the Inflation Adjustment Act. To do this, the 2015 Act requires agencies to identify, for each penalty, the year that Congress originally enacted the maximum penalty level/range of minimum and maximum penalty levels or the year that the agency last adjusted the penalty amount other than to pursuant to the Inflation Adjustment Act, and the corresponding penalty amount(s). The 2015 Act then requires agencies to perform an initial “catch-up” adjustment, using the original amounts of civil penalties as a baseline, so that the 2016 penalty levels are equal, in real terms, to the penalty amounts as they were originally established.

Pursuant to the 2015 Act, DHS undertook a review of the civil penalties that DHS and its components administer. This rule sets forth the initial “catch-up” adjustment for all civil penalties that DHS and its components administer. For each component, we have provided a table showing how DHS is increasing the penalties pursuant to the 2015 Act. The table contains the following information:

- In the first column (penalty name), we provide a description of the penalty.
- In the second column (citation), we provide the statutory cite from the United States Code (U.S.C.) and the regulatory cite from the Code of Federal Regulations (CFR).

¹ The 2015 Act was enacted as part of the Bipartisan Budget Act of 2015, Public Law 114-74 (Nov. 2, 2015).

- In the third column (current penalty), we list the existing penalty in effect on November 2, 2015.
- In the fourth column (baseline penalty (year)), we provide the amount and year of the penalty as enacted by Congress or as last changed through a mechanism other than pursuant to the Inflation Adjustment Act, whichever is later.
- In the fifth column (multiplier), we list the multiplier used to adjust the penalty. The multiplier is determined by the year of enactment or last adjustment of the penalty. The multiplier is based upon the Consumer Price Index (CPI-U) for the month of October 2015, not seasonally adjusted.²
- In the sixth column (preliminary new penalty), we list the amount obtained by multiplying the Baseline Penalty from column 4 with the Multiplier from column 5. This amount will be the final penalty, if, in accordance with the 2015 Act, this level does not increase penalty levels by more than 150 percent of the corresponding levels in effect on November 2, 2015.³
- In the seventh column, (adjusted new penalty), we provide the final number for the penalty. To derive this number, we compare the preliminary new penalty with the current penalty from column 3. The adjusted new penalty is the lesser of either the preliminary new penalty or an amount

equal to 150 percent more than the current penalty. Additionally, where applicable, we have also made conforming edits to regulatory text.

II. Adjustments by Component

In the following sections, we briefly describe the civil penalties that DHS and its components assess. We describe the nature of the penalties and discuss relevant authorities. We include tables at the end of each section, which list the individual adjustments for each penalty. We also include discussions where we believe further explanation is helpful.

A. National Protection and Programs Directorate

The National Protection and Programs Directorate (NPPD) administers only one civil penalty that the 2015 Act affects. This penalty assesses fines for violations of the Chemical Facility Anti-Terrorism Standards (CFATS), a program which regulates the security of chemical facilities that, in the discretion of the Secretary, present high levels of security risk. The CFATS program was originally established in 2007, pursuant to section 550 of the Department of Homeland Security Appropriations Act of 2007 (Pub. L. 109–295),⁴ and is currently located in part 27 of Title 6 of the CFR.

One question that arose is how to calculate the baseline date of the CFATS

penalty, which is \$25,000 per day. The question arose because the 2007 legislation, which established CFATS, did not create a new penalty provision, but rather referenced an older one:⁵ Section 70119(a) of Title 46. The Maritime Transportation Security Act (MTSA) (Pub. L. 107–295) was enacted in 2002 and established this penalty provision. For that reason, arguments could be made that we should index the \$25,000 penalty by the 2002 CPI value (the date the MTSA penalty was established) or the 2007 CPI value (the date the CFATS program was enacted). The difference between these numbers is material—indexing the \$25,000 penalty by the 2002 CPI value would yield a current penalty of \$32,796 per day, while indexing the penalty by the 2007 CPI value would yield a current penalty of only \$28,458 per day.

Because the CFATS legislation did not create a new civil penalty, but rather simply referenced the existing MTSA penalty, we believe the intent of Congress was that violators of either MTSA or CFATS would face identical penalties. For this reason, we have considered the “baseline” year for the CFATS penalty to be 2002 rather than 2007, and have increased the penalty by the multiplier appropriate for that year, as shown in Table 1 below.

TABLE 1—CFATS CIVIL PENALTY ADJUSTMENT

Penalty name	Citation	Current penalty	Baseline penalty * (year)	Multiplier **	Preliminary new penalty [multiplier × baseline penalty]	Adjusted new penalty [increase capped at 150% more than current penalty]
Penalty for non-compliance with CFATS regulations.	6 U.S.C. 624(b)(1); 6 CFR 27.300(b)(3) ...	\$25,000 per day	\$25,000 (2002)	1.31185	\$32,796	\$32,796

* The amount of the penalty and the year of when the penalty was established or last adjusted in statute or regulation other than pursuant to the Inflation Adjustment Act of 1990.

** OMB, Implementation of the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Table A: 2016 Civil Monetary Penalty Catch-Up Adjustment Multiplier by Calendar Year, February 24, 2016.

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. For example, section 231(g) of the INA, codified at 8 U.S.C. 1221(g),

requires that a carrier shall be fined \$1,000 for each person for whom manifest information is not provided.

CBP’s relevant penalty provisions are located in numerous sections of the INA (see list below), however CBP has

² 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>.

³ The 150 percent limitation is on the amount of the increase; therefore, the adjusted penalty levels are up to 250 percent of the levels in effect on November 2, 2015.

⁴ 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.*

⁵ Section 550(d) of the Department of Homeland Security Appropriations Act of 2007 set forth the

CFATS penalty, providing that “[a]ny person who violates an order issued under this section shall be liable for a civil penalty under section 70119(a) of title 46, United States Code. After promulgation of the Protecting and Securing Chemical Facilities from Terrorist Attacks Act of 2014, the relevant U.S.C. citation is 6 U.S.C. 624(b)(1), which still refers to the civil penalty section in 46 U.S.C. 70119(a).

enumerated these penalties in regulation in one location—in 8 CFR 280.53. Below is the list of penalty provisions in the INA:

- Section 231(g), 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.
- Section 234, Penalties for non-compliance with landing requirements at designated ports of entry for aircraft transporting aliens.
- Section 240B(d), Penalties for failure to depart voluntarily.
- Section 243(c)(1)(A), Penalties for violations of removal orders relating to aliens transported on vessels or aircraft under section 241(d) or for costs associated with removal under section 241(e).
- Section 243(c)(1)(B), Penalties for failure to remove alien stowaways under section 241(d)(2).
- Section 251(d), 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 and penalties for use of alien crewmen for longshore work in violation of section 251(d).

- Section 254(a), Penalties for failure to control, detain, or remove alien crewmen.
- Section 255, Penalties for employment on passenger vessels of aliens afflicted with certain disabilities.
- Section 256, Penalties for discharge of alien crewmen.
- Section 257, Penalties for bringing into the United States alien crewmen with intent to evade immigration laws.
- Section 271(a), Penalties for failure to prevent the unauthorized landing of aliens.
- Section 272(a), Penalties for bringing to the United States aliens subject to denial of admission on a health-related ground.
- Section 273(b), Penalties for bringing to the United States aliens without required documentation.

- Section 274D, Penalties for failure to depart.
- Section 275(b), Penalties for improper entry.

We note, for reference, that CBP also assesses certain civil monetary penalties for customs violations under title 19 of the CFR. CBP assesses those penalties under the Tariff Act of 1930, as amended, but as we discussed above, the 2015 Act specifically exempts Tariff Act penalties from the inflation adjustment requirements in the 2015 Act. For that reason, we have not listed those title 19 penalties in the below table of CBP penalty adjustments.

Under this rule, the current penalties continue to be applicable with regard to violations that occurred on or before November 2, 2015, the date of enactment of the 2015 Act. In Table 2 below, we provide the penalties that we are adjusting in accordance with the 2015 Act, where the associated violations occurred after November 2, 2015.

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

Penalty name	Citation	Current penalty	Baseline penalty* (year)	Multiplier**	Preliminary new penalty [multiplier × baseline penalty]	Adjusted new penalty [increase capped at 150% more than current penalty]
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)).	\$1,100	\$1,000 (2002)	1.31185	\$1,312	\$1,312
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).	\$3,200	\$2,000 (1990)	1.78156	\$3,563	\$3,563
Penalties for failure to depart voluntarily.	8 U.S.C. 1229c(d) 8 CFR 280.53(c)(3) (INA section 240B(d)).	\$1,100–\$5,500	\$1,000–\$5,000 (1996)	1.50245	\$1,502–\$7,512.	\$1,502–\$7,512
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)).	\$2,200	\$2,000 (1996)	1.50245	\$3,005	\$3,005

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

Penalty name	Citation	Current penalty	Baseline penalty * (year)	Multiplier **	Preliminary new penalty [multiplier × baseline penalty]	Adjusted new penalty [increase capped at 150% more than current penalty]
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)).	\$5,500	\$5,000 (1996)	1.50245	\$7,512	\$7,512
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)).	\$320 for each alien ...	\$200 for each alien (1990).	1.78156	\$356 for each alien.	\$356 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)).	\$7,500	\$5,000 (1990)	1.78156	\$8,908	\$8,908
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)).	\$750–\$4,300	\$500–\$3000 (1990) ...	1.78156	\$891–\$5,345	\$891–\$5,345
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).	\$1,100	\$1,000 (1990)	1.78156	\$1,782	\$1,782
Penalties for discharge of alien crewmen.	8 U.S.C. 1286 8 CFR 280.53(c)(8) (INA section 256).	\$1,500–\$4,300	\$1,500–\$3,000 (1990)	1.78156	\$2,672–\$5,345.	\$2,672–\$5,345
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).	\$16,000	\$10,000 (1990)	1.78156	\$17,816	\$17,816
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)).	\$4,300	\$3,000 (1990)	1.78156	\$5,345	\$5,345
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)).	\$4,300	\$3,000 (1990)	1.78156	\$5,345	\$5,345
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)).	\$4,300	\$3,000 (1990)	1.78156	\$5,345	\$5,345
Penalties for failure to depart.	8 U.S.C. 1324d 8 CFR 280.53(c)(13) (INA section 274D).	\$550	\$500 (1996)	1.50245	\$751	\$751
Penalties for improper entry.	8 U.S.C. § 1325(b) 8 CFR 280.53(c)(14) (INA section 275(b)).	\$55–275	\$50–\$250 (1996)	1.50245	\$75–\$376	\$75–\$376

* The amount of the penalty and the year of when the penalty was established or last adjusted in statute or regulation other than pursuant to the Inflation Adjustment Act of 1990.

** OMB, Implementation of the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Table A: 2016 Civil Monetary Penalty Catch-Up Adjustment Multiplier by Calendar Year, February 24, 2016.

C. Immigration and Customs Enforcement

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. These penalties cover, among other things, the knowing employment of unauthorized aliens and the failure to comply with the

employment verification requirements relating to completion of the Form I-9. ICE assesses and imposes civil monetary penalties with respect to employer sanctions under section 274A of the INA and 8 CFR part 274a. Similarly, ICE imposes civil penalties for specified actions relating to immigration-related document fraud under section 274C of the INA and 8 CFR part 270. We note that while ICE is updating the penalty amounts in 8 CFR part 270, ICE has not assessed these penalties in recent years.

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. Pursuant to the authority of the Inflation Adjustment Act and before the creation of DHS, DOJ previously adjusted the civil monetary penalties for inflation, increasing the specific amounts stated in sections 274A, 274B, and 274C of the INA. See 64 FR 7066 (Feb. 12, 1999) and 64 FR 47099 (Aug. 30, 1999). Both agencies issued a joint rulemaking to update the penalties in 2008. See 73 FR 10130 (Feb. 26, 2008). Today, as in 2008, the division of responsibilities between the Secretary of

Homeland Security and the Attorney General requires action by both Departments in order to effectuate a further adjustment of the civil penalties. The minimum and maximum civil penalty amounts for each violation will necessarily be the same whether DHS or DOJ imposes the penalty. See 8 CFR 274a.10 and 270.3; 28 CFR 68.52(c) and (e).

In this rule, DHS is amending 8 CFR parts 270 and 274a of the DHS regulations to incorporate the revised schedule of civil penalties, as adjusted for inflation according to the statutory formula described above. We note that DOJ is similarly revising regulations in 28 CFR part 68 (which correspond to the penalties in 8 CFR part 270) in a separate civil penalty adjustment rulemaking.

Under this rule, the current penalties continue to be applicable with regard to violations that occurred on or before November 2, 2015, the date of enactment of the 2015 Act. Table 3 below lays out the changes to the penalties, where the associated violations occurred after November 2, 2015.

TABLE 3—IMMIGRATION AND CUSTOMS ENFORCEMENT CIVIL PENALTIES ADJUSTMENTS

Penalty name	Citation	Current penalty	Baseline penalty* (year)	Multiplier**	Preliminary new penalty [multiplier × baseline penalty]	Adjusted new penalty [increase capped at 150% more than current penalty]
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) ...	\$375–\$3,200	\$250–\$2,000 (1990)	1.78156	\$445–\$3,563	\$445–\$3,563
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) ...	\$275–\$2,200	\$250–\$2,000 (1996)	1.50245	\$376–\$3,005	\$376–\$3,005
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) ...	\$3,200–\$6,500 ..	\$2,000–\$5,000 (1990)	1.78156	\$3,563–\$8,908 ..	\$3,563–\$8,908
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) ...	\$2,200–\$5,500 ..	\$2,000–\$5,000 (1996)	1.50245	\$3,005–\$7,512 ..	\$3,005–\$7,512
Violation/prohibition of indemnity bonds	8 CFR 274a.8(b)	\$1,100	\$1,000 (1986)	2.15628	\$2,156	\$2,156
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)	\$375–\$3,200	\$250–\$2,000 (1986)	2.15628	\$539–\$4,313	\$539–\$4,313
Penalty for second offense (per unauthorized alien).	8 CFR 274a.10(b)(1)(ii)(B)	\$3,200–\$6,500 ..	\$2,000–\$5,000 (1986)	2.15628	\$4,313–\$10,781	\$4,313–\$10,781
Penalty for third or subsequent offense (per unauthorized alien).	8 CFR 274a.10(b)(1)(ii)(C)	\$4,300–\$16,000	\$3,000–\$10,000 (1986)	2.15628	\$6,469–\$21,563	\$6,469–\$21,563
Civil penalties for I-9 paperwork violations	8 CFR 274a.10(b)(2)	\$110–\$1,100	\$100–\$1,000 (1986)	2.15628	\$216–\$2,156	\$216–\$2,156

* The amount of the penalty and the year of when the penalty was established or last adjusted in statute or regulation other than pursuant to the Inflation Adjustment Act of 1990.

** OMB, Implementation of the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Table A: 2016 Civil Monetary Penalty Catch-Up Adjustment Multiplier by Calendar Year, February 24, 2016.

D. U.S. Coast Guard

The Coast Guard is adjusting for inflation the penalties in the table in part 27 of title 33 of the CFR. That table 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. The new table in this regulation provides the current maximum penalty for violations that occurred after November 2, 2015. The penalties in effect for violations on or prior to November 2, 2015 can be found in prior CFR versions that pertain to the date in which the violation occurred. Since the Coast Guard had adjusted the table in part 27 for inflation on several occasions, not just one table can be used for all violations on or before November 2, 2015.

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 Title 14, 16, 19, 33, 42, 46, and 49 of the U.S.C. authorize these penalties. Titles 33 and 46 authorize the vast majority of these penalties as these statutes deal with navigation, navigable waters, and shipping.

Under title 33 of the U.S.C., the Coast Guard assesses penalties with respect to bridges, marine events, pollution prevention, oil discharges, sanitation, international navigation, and other environmental stewardship responsibilities. Most notably, the Coast Guard has express joint authority with the Environmental Protection Agency (EPA) to assess penalties in order to enforce the Federal Water Pollution Control Act (Clean Water Act) (CWA), as amended by the Oil Pollution Act of 1990 (OPA 90) (33 U.S.C. 1321 *et seq.*), and MARPOL Protocol, Annex VI (33 U.S.C. 1908). Penalties under the CWA and OPA 90 relate to the discharge of oil or a hazardous substance from a vessel or facility into or upon the navigable waters of the United States, adjoining shoreline, or into or upon the waters of the contiguous zone. Both agencies may assess penalties for discharges of oil or hazardous substances in connection with activities under the Outer Continental Shelf Lands Act or the Deepwater Port Act. Further, both agencies may assess penalties if a person fails to take mitigation or

removal action, or fails to comply with an order of the Federal On-Scene Coordinator. The Coast Guard and EPA delineate enforcement boundaries within each region. Under the Act to Prevent Pollution from Ships (APPS) (33 U.S.C. 1901 *et seq.*), both of these agencies may assess penalties for any violation of Annex VI, including but not limited to the carriage and use of low-sulfur fuel oil, and vessel engine and emission requirements. While the EPA focuses primarily on engine permit requirements and shoreside facility compliance, the Coast Guard may refer other matters to the EPA for enforcement in accordance with established protocol.

Under title 46 of the U.S.C., the Coast Guard assesses penalties with respect to vessel inspections, vessel operations, manning and training on vessels, marine casualty reporting, drug testing, pilotage, vessel identification, and other aspects of personnel and operations involved in the shipping industry. The majority of civil penalties under this title relate to vessel compliance, which includes general inspection requirements, crew requirements and limitations, and operational requirements of the vessel to engage in a commercial enterprise.

Beyond title 33 and title 46 of the U.S.C., the Coast Guard assesses penalties related to the organization and management of the Coast Guard, aquatic species conservation, obstruction of revenue, and hazardous substances and materials. Most notably, the Coast Guard has joint authority with EPA under title 42 of the U.S.C. to assess penalties for hazardous substances. Under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA) (42 U.S.C. 9601 *et seq.*), the Coast Guard may assess penalties for the failure to meet the notification requirements, failure to provide evidence of financial responsibility, or failure to follow an administrative order, among other violations. The Coast Guard has the primary responsibility to enforce the laws on navigational waterways.

As evidenced by the table below, the current inflation adjustment imposes a substantial change in many of the civil penalties administered by the Coast Guard. Part of the reason for the changes are that the enactment dates for penalties assessed by the Coast Guard vary widely, spanning from 1935 to

2014. Furthermore, the penalty amounts vary widely, spanning up to \$250,000. Under the 2015 Act, and as mentioned elsewhere in this preamble, Congress has created a straightforward method for calculating the amount of the inflation allowable for each penalty.

While the increases due to inflation are, for some penalties, substantial, not all penalties will be equivalent to their original value in real terms. Pursuant to the 2015 Act, the Coast Guard cannot increase any penalty by more than 150% of the previously adjusted penalty. As the Coast Guard last adjusted penalties for inflation on June 2, 2011 (76 FR 31831), it cannot adjust any penalty by more than 150% of the amount set by the final rule of June 2, 2011. After the Coast Guard used the new method and applied the 150% cap, they increased the penalties by an amount of 3% to 150% above the last adjustment. Of those penalties that the Coast Guard is increasing in this rulemaking, approximately 23 of the penalties are increasing more than 100% from their 2011 value, and the 2015 Act limits the amount that they can increase to 150% of the 2011 value. All of the penalties that Congress or the Coast Guard enacted prior to 1980 are increasing more than 100%. This is due to the great difference between the CPI-U level from the years enacted and the CPI-U from October 2015.

There were three penalties that decreased in value from their previous amounts. These penalties (codified in 46 U.S.C. App. 1505(a)(2), 46 U.S.C. App. 1805(c)(2), and 42 U.S.C. 12151(c)) showed significant decreases. These changes occurred because Congress recodified these penalties in 2006 after the Coast Guard adjusted them for inflation. Using the 2006 recodification as the new statutory baseline, the penalty amounts declined significantly in this rulemaking from their current values.

Finally, we are adding several penalties to the existing table in 33 CFR 27.3 that had been inadvertently omitted from regulatory text. These penalties include a penalty for intentional interference with a broadcast (codified at 14 U.S.C. 88(e)), a clean hulls penalty for recreational and commercial vessels (33 U.S.C. 3852(c)), vessel documentation relating to mobile offshore drilling units (46 U.S.C. 12151(a)(2)), and hazardous material training penalties (49 U.S.C. 5123(a)(3)).

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

Penalty name	Citation	Current penalty	Baseline penalty* (year) (statutory citation)	Multiplier**	Preliminary new penalty [multiplier × baseline penalty]	Adjusted new penalty [increase capped at 150% more than current penalty]
Saving Life and Property	14 U.S.C. 88(c)	\$10,000	\$10,000	1.00171	\$10,017	\$10,017
			(2014) (Pub. L. 113–281)			
Saving Life and Property; Intentional Interference with Broadcast.	14 U.S.C. 88(e)	1,000	\$1,000	1.02819	1,028	1,028
			(2012) (Pub. L. 112–213)			
Confidentiality of Medical Quality Assurance Records (first offense).	14 U.S.C. 645(i); 33 CFR 27.3.	4,000	\$3,000	1.67728	5,032	5,032
			(1992) (Pub. L. 102–587)			
Confidentiality of Medical Quality Assurance Records (subsequent offenses).	14 U.S.C. 645(i); 33 CFR 27.3.	30,000	\$20,000	1.67728	33,546	33,546
			(1992) (Pub. L. 102–587)			
Aquatic Nuisance Species in Waters of the United States.	16 U.S.C. 4711(g)(1); 33 CFR 27.3.	35,000	\$25,000	1.50245	37,561	37,561
			(1996) (Pub. L. 104–332)			
Obstruction of Revenue Officers by Masters of Vessels.	19 U.S.C. 70; 33 CFR 27.3.	3,000	\$2,000	17.36044	34,721	7,500
			(1935)			
Obstruction of Revenue Officers by Masters of Vessels—Minimum Penalty.	19 U.S.C. 70; 33 CFR 27.3.	700	\$500	17.36044	8,680	1,750
			(1935)			
Failure to Stop Vessel When Directed; Master, Owner, Operator or Person in Charge.	19 U.S.C. 1581(d)	5,000	\$5,000	N/A	N/A	*** 5,000
			(1930)			
Failure to Stop Vessel When Directed; Master, Owner, Operator or Person in Charge—Minimum Penalty.	19 U.S.C. 1581(d)	1,000	\$1,000	N/A	N/A	*** 1,000
			(1930)			
Anchorage Ground/Harbor Regulations General.	33 U.S.C. 471; 33 CFR 27.3.	110	\$10,000	1.08745	10,875	10,875
			(2010) (Pub. L. 111–281)			
Anchorage Ground/Harbor Regulations St. Mary's river.	33 U.S.C. 474; 33 CFR 27.3.	300	\$200	11.43452	2,287	750
			(1946) (11 FR 7875)			
Bridges/Failure to Comply with Regulations	33 U.S.C. 495(b); 33 CFR 27.3.	25,000	\$25,000	1.09819	27,455	27,455
			(2008) (Pub. L. 108–293)			
Bridges/Drawbridges	33 U.S.C. 499(c); 33 CFR 27.3.	25,000	\$25,000	1.09819	27,455	27,455
			(2008) (Pub. L. 108–293)			
Bridges/Failure to Alter Bridge Obstructing Navigation.	33 U.S.C. 502(c); 33 CFR 27.3.	25,000	\$25,000	1.09819	27,455	27,455
			(2008) (Pub. L. 108–293)			
Bridges/Maintenance and Operation	33 U.S.C. 533(b); 33 CFR 27.3.	25,000	\$25,000	1.09819	27,455	27,455
			(2008) (Pub. L. 108–293)			
Bridge to Bridge Communication; Master, Person in Charge or Pilot.	33 U.S.C. 1208(a); 33 CFR 27.3.	800	\$500	5.81511	2,908	2,000
			(1971) (Pub. L. 92–63)			
Bridge to Bridge Communication; Vessel ...	33 U.S.C. 1208(b); 33 CFR 27.3.	800	\$500	5.81511	2,908	2,000
			(1971) (Pub. L. 92–63)			
PWSA Regulations	33 U.S.C. 1232(a); 33 CFR 27.3.	40,000	\$25,000	3.54453	88,613	88,613
			(1978) (Pub. L. 95–474)			
Vessel Navigation: Regattas or Marine Parades; Unlicensed Person in Charge.	33 U.S.C. 1236(b); 33 CFR 27.3.	8,000	\$5,000	1.78156	8,908	8,908
			(1990) (Pub. L. 101–380)			
Vessel Navigation: Regattas or Marine Parades; Owner Onboard Vessel.	33 U.S.C. 1236(c); 33 CFR 27.3.	8,000	\$5,000	1.78156	8,908	8,908
			(1990) (Pub. L. 101–380)			
Vessel Navigation: Regattas or Marine Parades; Other Persons.	33 U.S.C. 1236(d); 33 CFR 27.3.	3,000	\$2,500	1.78156	4,454	4,454
			(1990) (Pub. L. 101–380)			

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

Penalty name	Citation	Current penalty	Baseline penalty* (year) (statutory citation)	Multiplier**	Preliminary new penalty [multiplier × baseline penalty]	Adjusted new penalty [increase capped at 150% more than current penalty]
Oil/Hazardous Substances: Discharges (Class I per violation).	33 U.S.C. 1321(b)(6)(B)(i); 33 CFR 27.3.	15,000	\$10,000 (1990) (Pub. L. 101–380)	1.78156	17,816	17,816
Oil/Hazardous Substances: Discharges (Class I total under paragraph).	33 U.S.C. 1321(b)(6)(B)(i); 33 CFR 27.3.	40,000	\$25,000 (1990) (Pub. L. 101–380)	1.78156	44,539	44,539
Oil/Hazardous Substances: Discharges (Class II per day of violation).	33 U.S.C. 1321(b)(6)(B)(ii); 33 CFR 27.3.	15,000	\$10,000 (1990) (Pub. L. 101–380)	1.78156	17,816	17,816
Oil/Hazardous Substances: Discharges (Class II total under paragraph).	33 U.S.C. 1321(b)(6)(B)(ii); 33 CFR 27.3.	190,000	\$125,000 (1990) (Pub. L. 101–380)	1.78156	222,695	222,695
Oil/Hazardous Substances: Discharges (per day of violation) Judicial Assessment.	33 U.S.C. 1321(b)(7)(A); 33 CFR 27.3.	40,000	\$25,000 (1990) (Pub. L. 101–380)	1.78156	44,539	44,539
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.	1,100	\$1,000 (1990) (Pub. L. 101–380)	1.78156	1,782	1,782
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.	40,000	\$25,000 (1990) (Pub. L. 101–380)	1.78156	44,539	44,539
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.	40,000	\$25,000 (1990) (Pub. L. 101–380)	1.78156	44,539	44,539
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.	4,000	\$3,000 (1990) (Pub. L. 101–380)	1.78156	5,345	5,345
Oil/Hazardous Substances: Discharges, Gross Negligence—Minimum Penalty (Judicial Assessment).	33 U.S.C. 1321(b)(7)(D); 33 CFR 27.3.	130,000	\$100,000 (1990) (Pub. L. 101–380)	1.78156	178,156	178,156
Marine Sanitation Devices; Operating	33 U.S.C. 1322(j); 33 CFR 27.3.	3,000	\$2,000 (1972) (Pub. L. 92–500)	5.62265	11,245	7,500
Marine Sanitation Devices; Sale or Manufacture.	33 U.S.C. 1322(j); 33 CFR 27.3.	8,000	\$5,000 (1972) (Pub. L. 92–500)	5.62265	28,113	20,000
International Navigation Rules; Operator	33 U.S.C. 1608(a); 33 CFR 27.3.	8,000	\$5,000 (1980) (Pub. L. 96–591)	2.80469	14,023	14,023
International Navigation Rules; Vessel	33 U.S.C. 1608(b); 33 CFR 27.3.	8,000	\$5,000 (1980) (Pub. L. 96–591)	2.80469	14,023	14,023
Pollution from Ships; General	33 U.S.C. 1908(b)(1); 33 CFR 27.3.	40,000	\$25,000 (1980) (Pub. L. 96–478)	2.80469	70,117	70,117
Pollution from Ships; False Statement	33 U.S.C. 1908(b)(1); 33 CFR 27.3.	8,000	\$5,000 (1980) (Pub. L. 96–478)	2.80469	14,023	14,023
Inland Navigation Rules; Operator	33 U.S.C. 2072(a); 33 CFR 27.3.	8,000	\$5,000 (1980) (Pub. L. 96–591)	2.80469	14,023	14,023
Inland Navigation Rules; Vessel	33 U.S.C. 2072(b); 33 CFR 27.3.	8,000	\$5,000 (1980) (Pub. L. 96–591)	2.80469	14,023	14,023
Shore Protection; General	33 U.S.C. 2609(a); 33 CFR 27.3.	40,000	\$25,000 (1988) (Pub. L. 100–688)	1.97869	49,467	49,467
Shore Protection; Operating Without Permit.	33 U.S.C. 2609(b); 33 CFR 27.3.	15,000	\$10,000 (1988) (Pub. L. 100–688)	1.97869	19,787	19,787
Oil Pollution Liability and Compensation	33 U.S.C. 2716a(a); 33 CFR 27.3.	40,000	\$25,000 (1990) (Pub. L. 101–380)	1.78156	44,539	44,539

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

Penalty name	Citation	Current penalty	Baseline penalty* (year) (statutory citation)	Multiplier**	Preliminary new penalty [multiplier × baseline penalty]	Adjusted new penalty [increase capped at 150% more than current penalty]
Clean Hulls	33 U.S.C. 3852(a)(1)(A); 33 CFR 27.3.	37,500	\$37,500	1.08745	40,779	40,779
Clean Hulls—related to false statements ...	33 U.S.C. 3852(a)(1)(A); 33 CFR 27.3.	50,000	\$50,000	1.08745	54,373	54,373
Clean Hulls—Recreational Vessel	33 U.S.C. 3852(c); 33 CFR 27.3.	5,000	\$5,000	1.08745	5,437	5,437
Hazardous Substances, Releases, Liability, Compensation (Class I).	42 U.S.C. 9609(a); 33 CFR 27.3.	35,000	\$25,000	2.15628	53,907	53,907
Hazardous Substances, Releases, Liability, Compensation (Class II).	42 U.S.C. 9609(b); 33 CFR 27.3.	35,000	\$25,000	2.15628	53,907	53,907
Hazardous Substances, Releases, Liability, Compensation (Class II subsequent offense).	42 U.S.C. 9609(b); 33 CFR 27.3.	100,000	\$75,000	2.15628	161,721	161,721
Hazardous Substances, Releases, Liability, Compensation (Judicial Assessment).	42 U.S.C. 9609(c); 33 CFR 27.3.	35,000	\$25,000	2.15628	53,907	53,907
Hazardous Substances, Releases, Liability, Compensation (Judicial Assessment subsequent offense).	42 U.S.C. 9609(c); 33 CFR 27.3.	100,000	\$75,000	2.15628	161,721	161,721
Safe Containers for International Cargo	46 U.S.C. App 1505(a)(2) (codified as 46 USC 80509); 33 CFR 27.3.	8,000	\$5,000	1.17858	5,893	5,893
Suspension of Passenger Service	46 U.S.C. App 1805(c)(2) (codified 46 USC 70305); 33 CFR 27.3.	70,000	\$50,000	1.17858	58,929	58,929
Vessel Inspection or Examination Fees	46 U.S.C. 2110(e); 33 CFR 27.3.	8,000	\$5,000	1.78156	8,908	8,908
Alcohol and Dangerous Drug Testing	46 U.S.C. 2115; 33 CFR 27.3.	7,000	\$5,000	1.45023	7,251	7,251
Negligent Operations: Recreational Vessels.	46 U.S.C. 2302(a); 33 CFR 27.3.	6,000	\$5,000	1.31185	6,559	6,559
Negligent Operations: Other Vessels	46 U.S.C. 2302(a); 33 CFR 27.3.	30,000	\$25,000	1.31185	32,796	32,796
Operating a Vessel While Under the Influence of Alcohol or a Dangerous Drug.	46 U.S.C. 2302(c)(1); 33 CFR 27.3.	7,000	\$5,000	1.45023	7,251	7,251
Vessel Reporting Requirements: Owner, Charterer, Managing Operator, or Agent.	46 U.S.C. 2306(a)(4); 33 CFR 27.3.	8,000	\$5,000	2.25867	11,293	11,293
Vessel Reporting Requirements: Master	46 U.S.C. 2306(b)(2); 33 CFR 27.3.	1,100	\$1,000	2.25867	2,259	2,259
Immersion Suits	46 U.S.C. 3102(c)(1); 33 CFR 27.3.	8,000	\$5,000	2.25867	11,293	11,293
Inspection Permit	46 U.S.C. 3302(i)(5); 33 CFR 27.3.	1,100	\$1,000	2.35483	2,355	2,355
Vessel Inspection; General	46 U.S.C. 3318(a); 33 CFR 27.3.	8,000	\$5,000	2.25867	11,293	11,293
Vessel Inspection; Nautical School Vessel	46 U.S.C. 3318(g); 33 CFR 27.3.	8,000	\$5,000	2.25867	11,293	11,293
Vessel Inspection; Failure to Give Notice IAW 3304(b).	46 U.S.C. 3318(h); 33 CFR 27.3.	1,100	\$1,000	2.25867	2,259	2,259

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

Penalty name	Citation	Current penalty	Baseline penalty* (year) (statutory citation)	Multiplier**	Preliminary new penalty [multiplier × baseline penalty]	Adjusted new penalty [increase capped at 150% more than current penalty]
Vessel Inspection; Failure to Give Notice IAW 3309(c).	46 U.S.C. 3318(i); 33 CFR 27.3.	1,100	\$1,000 (1984) (Pub. L. 98–498)	2.25867	2,259	2,259
Vessel Inspection; Vessel ≥1600 Gross Tons.	46 U.S.C. 3318(j)(1); 33 CFR 27.3.	15,000	\$10,000 (1984) (Pub. L. 98–498)	2.25867	22,587	22,587
Vessel Inspection; Vessel <1600 Gross Tons.	46 U.S.C. 3318(j)(1); 33 CFR 27.3.	3,000	\$2,000 (1984) (Pub. L. 98–498)	2.25867	4,517	4,517
Vessel Inspection; Failure to Comply with 3311(b).	46 U.S.C. 3318(k); 33 CFR 27.3.	15,000	\$10,000 (1984) (Pub. L. 98–498)	2.25867	22,587	22,587
Vessel Inspection; Violation of 3318(b)–3318(f).	46 U.S.C. 3318(l); 33 CFR 27.3.	8,000	\$5,000 (1984) (Pub. L. 98–498)	2.25867	11,293	11,293
List/count of Passengers	46 U.S.C. 3502(e); 33 CFR 27.3.	110	\$100 (1983) (Pub. L. 98–89)	2.35483	235	235
Notification to Passengers	46 U.S.C. 3504(c); 33 CFR 27.3.	15,000	\$10,000 (1983) (Pub. L. 98–89)	2.35483	23,548	23,548
Notification to Passengers; Sale of Tickets	46 U.S.C. 3504(c); 33 CFR 27.3.	800	\$500 (1983) (Pub. L. 98–89)	2.35483	1,177	1,177
Copies of Laws on Passenger Vessels; Master.	46 U.S.C. 3506; 33 CFR 27.3.	300	\$200 (1983) (Pub. L. 98–89)	2.35483	471	471
Liquid Bulk/Dangerous Cargo	46 U.S.C. 3718(a)(1); 33 CFR 27.3.	40,000	\$25,000 (1983) (Pub. L. 98–89)	2.35483	58,871	58,871
Uninspected Vessels	46 U.S.C. 4106; 33 CFR 27.3.	8,000	\$5,000 (1988) (Pub. L. 100–540)	1.97869	9,893	9,893
Recreational Vessels (maximum for related series of violations).	46 U.S.C. 4311(b)(1); 33 CFR 27.3.	300,000	\$250,000 (2004) (Pub. L. 108–293)	1.24588	311,470	311,470
Recreational Vessels; Violation of 4307(a)	46 U.S.C. 4311(b)(1); 33 CFR 27.3.	6,000	\$5,000 (2004) (Pub. L. 108–293)	1.24588	6,229	6,229
Recreational vessels	46 U.S.C. 4311(c); 33 CFR 27.3.	1,100	\$1,000 (1983) (Pub. L. 98–89)	2.35483	2,355	2,355
Uninspected Commercial Fishing Industry Vessels.	46 U.S.C. 4507; 33 CFR 27.3.	8,000	\$5,000 (1988) (Pub. L. 100–424)	1.97869	9,893	9,893
Abandonment of Barges	46 U.S.C. 4703; 33 CFR 27.3.	1,100	\$1,000 (1992) (Pub. L. 102–587)	1.67728	1,677	1,677
Load Lines	46 U.S.C. 5116(a); 33 CFR 27.3.	8,000	\$5,000 (1986) (Pub. L. 99–509)	2.15628	10,781	10,781
Load Lines; Violation of 5112(a)	46 U.S.C. 5116(b); 33 CFR 27.3.	15,000	\$10,000 (1986) (Pub. L. 99–509)	2.15628	21,563	21,563
Load Lines; Violation of 5112(b)	46 U.S.C. 5116(c); 33 CFR 27.3.	8,000	\$5,000 (1986) (Pub. L. 99–509)	2.15628	10,781	10,781
Reporting Marine Casualties	46 U.S.C. 6103(a); 33 CFR 27.3.	35,000	\$25,000 (1996) (Pub. L. 104–324)	1.50245	37,561	37,561
Reporting Marine Casualties; Violation of 6104.	46 U.S.C. 6103(b); 33 CFR 27.3.	8,000	\$5,000 (1988) (Pub. L. 100–424)	1.97869	9,893	9,893
Manning of Inspected Vessels; Failure to Report Deficiency in Vessel Complement.	46 U.S.C. 8101(e); 33 CFR 27.3.	1,100	\$1,000 (1990) (Pub. L. 101–380)	1.78156	1,782	1,782

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

Penalty name	Citation	Current penalty	Baseline penalty* (year) (statutory citation)	Multiplier**	Preliminary new penalty [multiplier × baseline penalty]	Adjusted new penalty [increase capped at 150% more than current penalty]
Manning of Inspected Vessels	46 U.S.C. 8101(f); 33 CFR 27.3.	15,000	\$10,000 (1990) (Pub. L. 101–380)	1.78156	17,816	17,816
Manning of Inspected Vessels; Employing or Serving in Capacity not Licensed by USCG.	46 U.S.C. 8101(g); 33 CFR 27.3.	15,000	\$10,000 (1990) (Pub. L. 101–380)	1.78156	17,816	17,816
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.	1,100	\$1,000 (1983) (Pub. L. 98–89)	2.35483	2,355	2,355
Watchmen on Passenger Vessels	46 U.S.C. 8102(a)	1,100	\$1,000 (1983) (Pub. L. 98–89)	2.35483	2,355	2,355
Citizenship Requirements	46 U.S.C. 8103(f)	800	\$500 (1983) (Pub. L. 98–89)	2.35483	1,177	1,177
Watches on Vessels; Violation of 8104(a) or (b).	46 U.S.C. 8104(i)	15,000	\$10,000 (1990) (Pub. L. 101–380)	1.78156	17,816	17,816
Watches on Vessels; Violation of 8104(c), (d), (e), or (h).	46 U.S.C. 8104(j)	15,000	\$10,000 (1990) (Pub. L. 101–380)	1.78156	17,816	17,816
Staff Department on Vessels	46 U.S.C. 8302(e)	110	\$100 (1983) (Pub. L. 98–89)	2.35483	235	235
Officer's Competency Certificates	46 U.S.C. 8304(d)	110	\$100 (1983) (Pub. L. 98–89)	2.35483	235	235
Coastwise Pilotage; Owner, Charterer, Managing Operator, Agent, Master or Individual in Charge.	46 U.S.C. 8502(e)	15,000	\$10,000 (1990) (Pub. L. 101–380)	1.78156	17,816	17,816
Coastwise Pilotage; Individual	46 U.S.C. 8502(f)	15,000	\$10,000 (1990) (Pub. L. 101–380)	1.78156	17,816	17,816
Federal Pilots	46 U.S.C. 8503	40,000	\$25,000 (1984) (Pub. L. 98–557)	2.25867	56,467	56,467
Merchant Mariners Documents	46 U.S.C. 8701(d)	800	\$500 (1983) (Pub. L. 98–89)	2.35483	1,177	1,177
Crew Requirements	46 U.S.C. 8702(e)	15,000	\$10,000 (1990) (Pub. L. 101–380)	1.78156	17,816	17,816
Small Vessel Manning	46 U.S.C. 8906	35,000	\$25,000 (1996) (Pub. L. 104–324)	1.50245	37,561	37,561
Pilotage: Great Lakes; Owner, Charterer, Managing Operator, Agent, Master or Individual in Charge.	46 U.S.C. 9308(a)	15,000	\$10,000 (1990) (Pub. L. 101–380)	1.78156	17,816	17,816
Pilotage: Great Lakes; Individual	46 U.S.C. 9308(b)	15,000	\$10,000 (1990) (Pub. L. 101–380)	1.78156	17,816	17,816
Pilotage: Great Lakes; Violation of 9303	46 U.S.C. 9308(c)	15,000	\$10,000 (1990) (Pub. L. 101–380)	1.78156	17,816	17,816
Failure to Report Sexual Offense	46 U.S.C. 10104(b)	8,000	\$5,000 (1989) (Pub. L. 101–225)	1.89361	9,468	9,468
Pay Advances to Seamen	46 U.S.C. 10314(a)(2)	800	\$500 (1983) (Pub. L. 98–89)	2.35483	1,177	1,177
Pay Advances to Seamen; Remuneration for Employment.	46 U.S.C. 10314(b)	800	\$500 (1983) (Pub. L. 98–89)	2.35483	1,177	1,177

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

Penalty name	Citation	Current penalty	Baseline penalty* (year) (statutory citation)	Multiplier**	Preliminary new penalty [multiplier × baseline penalty]	Adjusted new penalty [increase capped at 150% more than current penalty]
Allotment to Seamen	46 U.S.C. 10315(c)	800	\$500 (1983) (Pub. L. 98–89)	2.35483	1,177	1,177
Seamen Protection; General	46 U.S.C. 10321	7,000	\$5,000 (1993) (Pub. L. 103–206)	1.63238	8,162	8,162
Coastwise Voyages: Advances	46 U.S.C. 10505(a)(2)	7,000	\$5,000 (1993) (Pub. L. 103–206)	1.63238	8,162	8,162
Coastwise Voyages: Advances; Remuneration for Employment.	46 U.S.C. 10505(b)	7,000	\$5,000 (1993) (Pub. L. 103–206)	1.63238	8,162	8,162
Coastwise Voyages: Seamen Protection; General.	46 U.S.C. 10508(b)	7,000	\$5,000 (1993) (Pub. L. 103–206)	1.63238	8,162	8,162
Effects of Deceased Seamen	46 U.S.C. 10711	300	\$200 (1983) (Pub. L. 98–89)	2.35483	471	471
Complaints of Unfitness	46 U.S.C. 10902(a)(2)	800	\$500 (1983) (Pub. L. 98–89)	2.35483	1,177	1,177
Proceedings on Examination of Vessel	46 U.S.C. 10903(d)	110	\$100 (1983) (Pub. L. 98–89)	2.35483	235	235
Permission to Make Complaint	46 U.S.C. 10907(b)	800	\$500 (1983) (Pub. L. 98–89)	2.35483	1,177	1,177
Accommodations for Seamen	46 U.S.C. 11101(f)	800	\$500 (1983) (Pub. L. 98–89)	2.35483	1,177	1,177
Medicine Chests on Vessels	46 U.S.C. 11102(b)	800	\$500 (1983) (Pub. L. 98–89)	2.35483	1,177	1,177
Destitute Seamen	46 U.S.C. 11104(b)	110	\$100 (1983) (Pub. L. 98–89)	2.35483	235	235
Wages on Discharge	46 U.S.C. 11105(c)	800	\$500 (1983) (Pub. L. 98–89)	2.35483	1,177	1,177
Log Books; Master Failing to Maintain	46 U.S.C. 11303(a)	300	\$200 (1983) (Pub. L. 98–89)	2.35483	471	471
Log Books; Master Failing to Make Entry	46 U.S.C. 11303(b)	300	\$200 (1983) (Pub. L. 98–89)	2.35483	471	471
Log Books; Late Entry	46 U.S.C. 11303(c)	200	\$150 (1983) (Pub. L. 98–89)	2.35483	353	353
Carrying of Sheath Knives	46 U.S.C. 11506	80	\$50 (1983) (Pub. L. 98–89)	2.35483	118	118
Vessel Documentation	46 U.S.C. 12151(a)(1)	15,000	\$15,000 (2012) (Pub. L. 112–213)	1.02819	15,423	15,423
Documentation of Vessels—Related to Activities involving mobile offshore drilling units.	46 U.S.C. 12151(a)(2)	25,000	\$25,000 (2012) (Pub. L. 112–213)	1.02819	25,705	25,705
Vessel Documentation; Fishery Endorsement.	46 U.S.C. 12151(c)	130,000	\$100,000 (2006) (Pub. L. 109–304)	1.17858	117,858	117,858
Numbering of Undocumented Vessels—Willful violation.	46 U.S.C. 12309(a)	6,000	\$5,000 (1983) (Pub. L. 98–89)	2.35483	11,774	11,774
Numbering of Undocumented Vessels	46 U.S.C. 12309(b)	1,100	\$1,000 (1983) (Pub. L. 98–89)	2.35483	2,355	2,355
Vessel Identification System	46 U.S.C. 12507(b)	15,000	\$10,000 (1988) (Pub. L. 100–710)	1.97869	19,787	19,787

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

Penalty name	Citation	Current penalty	Baseline penalty* (year) (statutory citation)	Multiplier**	Preliminary new penalty [multiplier × baseline penalty]	Adjusted new penalty [increase capped at 150% more than current penalty]
Measurement of Vessels	46 U.S.C. 14701	30,000	\$20,000 (1986) (Pub. L. 99–509)	2.15628	43,126	43,126
Measurement; False Statements	46 U.S.C. 14702	30,000	\$20,000 (1986) (Pub. L. 99–509)	2.15628	43,126	43,126
Commercial Instruments and Maritime Liens.	46 U.S.C. 31309	15,000	\$10,000 (1988) (Pub. L. 100–710)	1.97869	19,787	19,787
Commercial Instruments and Maritime Liens; Mortgagor.	46 U.S.C. 31330(a)(2)	15,000	\$10,000 (1988) (Pub. L. 100–710)	1.97869	19,787	19,787
Commercial Instruments and Maritime Liens; Violation of 31329.	46 U.S.C. 31330(b)(2)	35,000	\$25,000 (1988) (Pub. L. 100–710)	1.97869	49,467	49,467
Port Security	46 U.S.C. 70119(a)	30,000	\$25,000 (2002) (Pub. L. 107–295)	1.31185	32,796	32,796
Port Security—Continuing Violations	46 U.S.C. 70119(b)	50,000	\$50,000 (2006) (Pub. L. 109–241)	1.17858	58,929	58,929
Maritime Drug Law Enforcement	46 U.S.C. 70506(c)	5,000	\$5,000 (2010) (Pub. L. 111–281)	1.08745	5,437	5,437
Hazardous Materials: Related to Vessels ..	49 U.S.C. 5123(a)(1)	75,000	\$75,000 (2012) (Pub. L. 112–141)	1.02819	77,114	77,114
Hazardous Materials: Related to Vessels—Penalty from Fatalities, Serious Injuries/ Illness or substantial Damage to Property.	49 U.S.C. 5123(a)(2)	175,000	\$175,000 (2012) (Pub. L. 112–141)	1.02819	179,933	179,933
Hazardous Materials: Related to Vessels; Training.	49 U.S.C. 5123(a)(3)	450	\$450 (2012) (Pub. L. 112–141)	1.02819	463	463

*The amount of the penalty and the year of when the penalty was established or last adjusted in statute or regulation other than pursuant to the Inflation Adjustment Act of 1990.

**OMB, Implementation of the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Table A: 2016 Civil Monetary Penalty Catch-Up Adjustment Multiplier by Calendar Year, February 24, 2016.

*** 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.⁶ 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),⁷ as well as violations of requirements described in chapter 449 of Title 49 of the U.S. 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.

TSA's maximum civil penalty amounts are located in 49 CFR 1503.401. Over the years, Congress has increased the amount of those penalties to reflect the importance of maintaining aviation security. In section 1602 of the Homeland Security Act of 2002 (Pub. L. 107–296 (Nov. 25, 2002)), Congress raised the maximum civil penalty amounts per violation for certain aviation security statutes. Additionally,

in section 503(b) of the Vision 100—Century of Aviation Reauthorization Act (Vision 100) (Pub. L. 108–176 (Dec. 12, 2003)), Congress raised the total civil penalty amount per case that TSA may assess.

In this rulemaking, we are also making several minor adjustments to the regulatory text in section 1503.401 beyond simply updating the penalty numbers. First, we are eliminating the text in paragraph (d), “Inflation adjustment,” because it is no longer needed. Pursuant to the 2015 Act, TSA will carry out inflation adjustments annually in the future, so there is no need for this text. Each year, TSA will update the amounts with current figures per the latest adjustment.

Additionally, TSA is correcting a minor error that appeared in section 1503.401(c). Previously, subsection

⁶ 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)).

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

(c)(1), which prescribed penalties for certain aviation-related violations, stated that the penalty against an entity that is operating a non-aircraft operator business was limited to \$50,000. However, that statement incorrectly applied the limiting provision in 49 U.S.C. 46301(d)(8)(C), which applies the \$50,000 limitation (unadjusted for inflation) only to individuals and small businesses. TSA can assess the full amount of \$400,000 (adjusted for

inflation) against an entity that is not an individual or small business, and operating a non-aircraft operator business who is subject to this fine. We have made this correction by removing the inaccurate clause from paragraph (c)(1) and adding a new paragraph (c)(2) explicitly stating that an entity operating an on-aircraft operator business is subject to the full fine. We are redesignating existing paragraph (c)(2) as (c)(3).

Under this rule, the current penalties continue to be applicable with regard to violations that occurred on or before November 2, 2015, the date of enactment of the 2015 Act. Table 5 below contains a full list of the penalties assessed by the Transportation Security Administration, where the associated violation occurred after November 2, 2015.

TABLE 5—TRANSPORTATION SECURITY ADMINISTRATION CIVIL PENALTIES ADJUSTMENTS

Penalty name	Citation	Current penalty	Baseline penalty * (year)	Multiplier**	Preliminary new penalty [multiplier × baseline penalty]	Adjusted new penalty [increase capped at 150% more than current penalty]
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).	\$27,500 (up to a total of \$400,000 per civil penalty action).	\$25,000 (2003) (up to a total of \$400,000 per civil penalty action).	1.28561	\$32,140 (up to a total of \$514,244 per civil penalty action).	\$32,140 (up to a total of \$514,244 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).	\$11,000 (up to a total of \$50,000 total for small businesses, \$400,000 for others).	\$10,000 (2003) (up to a total of \$50,000 total for small businesses, \$400,000 for others).	1.28561	\$12,856 (up to a total of \$64,281 total for small businesses, \$514,244 for others).	\$12,856 (up to a total of \$64,281 total for small businesses, \$514,244 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).	\$10,000 (up to a total of \$50,000 total for small businesses, \$400,000 for others).	\$10,000 (2009) (up to a total of \$50,000 total for small businesses, \$400,000 for others).	1.10020	\$11,002 (up to a total of \$55,010 total for small businesses, \$440,080 for others).	\$11,002 (up to a total of \$55,010 total for small businesses, \$440,080 for others).

* The amount of the penalty and the year of when the penalty was established or last adjusted in statute or regulation other than pursuant to the Inflation Adjustment Act of 1990.

** OMB, Implementation of the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Table A: 2016 Civil Monetary Penalty Catch-Up Adjustment Multiplier by Calendar Year, February 24, 2016.

III. 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, 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).

DHS is promulgating this rule to ensure that the amount of civil penalties that DHS assesses or enforces reflects the statutorily mandated ranges as adjusted for inflation. Pursuant to 5 U.S.C. 553(b)(3)(B), there is good cause to issue this rule without prior public

notice or opportunity for public comment, because it would be impracticable and unnecessary. The 2015 Act directed agencies to “adjust civil monetary penalties through an interim final rulemaking” and to make subsequent annual adjustments for inflation to civil monetary penalties notwithstanding section 553 of title 5 of the U.S. Code. In addition, 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, prior public notice and comment are not required for this rule.

IV. 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. This final rule has not been designated a “significant regulatory action,” under section 3(f) of Executive Order 12866. Accordingly, the Office of Management

and Budget (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.⁸ 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 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 interim final rule, because a notice of proposed rulemaking is 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 interim final rule will not result in such an expenditure.

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 interim 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

For the reasons stated in the preamble, the Department of Homeland Security amends 6 CFR part 27, 8 CFR parts 270, 274a, and 280, 33 CFR part 27, and 49 CFR part 1503 as follows:

Title 6—Domestic Security

PART 27—CHEMICAL FACILITY ANTI-TERRORISM STANDARDS

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

Authority: 6 U.S.C. 624; Pub. L. 101–410, 104 Stat. 890, as amended by Pub. L. 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 \$32,796 for each day during which 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 is revised to read as follows:

Authority: 8 U.S.C. 1101, 1103, and 1324c; Pub. L. 101–410, 104 Stat. 890, as amended by Pub. L. 104–134, 110 Stat. 1321 and Pub. L. 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 before March 27, 2008; not less than \$375 and not exceeding \$3,200 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 \$445 and not exceeding \$3,563 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 \$376 and not exceeding \$3,005 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 \$3,563 and not more than \$8,908 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

⁸ OMB, Implementation of the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, 24 February 2016. <https://www.whitehouse.gov/sites/default/files/omb/memoranda/2016/m-16-06.pdf>.

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 \$3,005 and not more than \$7,512 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 is revised to read as follows:

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

■ 6. In § 4a.8, revise (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 \$2,156 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),(C), and (b)(1)(iii)(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 \$539 and not more than \$4,313 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 \$4,313 and not more than \$10,781 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 \$6,469 and not more than \$21,563 for each unauthorized alien with respect to whom the third or subsequent offense occurred after November 2, 2015; and

(iii) * * *

(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 \$216 and not more than \$2,156 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 is revised 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; Pub.

L. 101–410, 104 Stat. 890, as amended by Pub. L. 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 this 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 \$1,100 to \$1,312.

(2) Section 234 of the Act, Penalties for non-compliance with landing requirements at designated ports of entry for aircraft transporting aliens: From \$3,200 to \$3,563.

(3) Section 240B(d) of the Act, Penalties for failure to depart voluntarily: From \$1,100 minimum/\$5,500 maximum to \$1,502 minimum/\$7,512 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 \$2,200 to \$3,005;

(5) Penalties for failure to remove alien stowaways under section 241(d)(2): From \$5,500 to \$7,512.

(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 \$320 to \$356; and penalties for use of alien crewmen for longshore work in violation of section 251(d) of the Act: From \$7,500 to \$8,908.

(7) Section 254(a) of the Act, Penalties for failure to control, detain, or remove alien crewmen: From \$750 minimum/\$4,300 maximum to \$891 minimum/\$5,345 maximum.

(8) Section 255 of the Act, Penalties for employment on passenger vessels of

aliens afflicted with certain disabilities: From \$1,100 to \$1,782.

(9) Section 256 of the Act, Penalties for discharge of alien crewmen: From \$1,500 minimum/\$4,300 maximum to \$2,672 minimum/\$5,345 maximum.

(10) Section 257 of the Act, Penalties for bringing into the United States alien crewmen with intent to evade immigration laws: From \$16,000 maximum to \$17,816 maximum.

(11) Section 271(a) of the Act, Penalties for failure to prevent the unauthorized landing of aliens: From \$4,300 to \$5,345.

(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 \$4,300 to \$5,345.

(13) Section 273(b) of the Act, Penalties for bringing to the United States aliens without required documentation: From \$4,300 to \$5,345.

(14) Section 274D of the Act, Penalties for failure to depart: From \$550 to \$751, for each day the alien is in violation.

(15) Section 275(b) of the Act, Penalties for improper entry: From \$55 minimum/\$275 maximum to \$75 minimum/\$376 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 August 1, 2016, 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 33 CFR part 27.

TABLE 1—CIVIL MONETARY PENALTY INFLATION ADJUSTMENTS

U.S. Code citation	Civil monetary penalty description	2016 adjusted maximum penalty amount (\$)
14 U.S.C. 88(c)	Saving Life and Property	10,017
14 U.S.C. 88(e)	Saving Life and Property; Intentional Interference with Broadcast	1,028
14 U.S.C. 645(i)	Confidentiality of Medical Quality Assurance Records (first offense)	5,032
14 U.S.C. 645(i)	Confidentiality of Medical Quality Assurance Records (subsequent offenses)	33,546
16 U.S.C. 4711(g)(1)	Aquatic Nuisance Species in Waters of the United States	37,561
19 U.S.C. 70	Obstruction of Revenue Officers by Masters of Vessels	7,500
19 U.S.C. 70	Obstruction of Revenue Officers by Masters of Vessels—Minimum Penalty	1,750
19 U.S.C. 1581(d)	Failure to Stop Vessel When Directed; Master, Owner, Operator or Person in Charge ¹	5,000
19 U.S.C. 1581(d)	Failure to Stop Vessel When Directed; Master, Owner, Operator or Person in Charge—Minimum Penalty ¹	1,000
33 U.S.C. 471	Anchorage Ground/Harbor Regulations General	10,875
33 U.S.C. 474	Anchorage Ground/Harbor Regulations St. Mary's River	750
33 U.S.C. 495(b)	Bridges/Failure to Comply with Regulations	27,455
33 U.S.C. 499(c)	Bridges/Drawbridges	27,455
33 U.S.C. 502(c)	Bridges/Failure to Alter Bridge Obstructing Navigation	27,455
33 U.S.C. 533(b)	Bridges/Maintenance and Operation	27,455
33 U.S.C. 1208(a)	Bridge to Bridge Communication; Master, Person in Charge or Pilot	2,000
33 U.S.C. 1208(b)	Bridge to Bridge Communication; Vessel	2,000
33 U.S.C. 1232(a)	PWSA Regulations	88,613
33 U.S.C. 1236(b)	Vessel Navigation: Regattas or Marine Parades; Unlicensed Person in Charge	8,908
33 U.S.C. 1236(c)	Vessel Navigation: Regattas or Marine Parades; Owner Onboard Vessel	8,908
33 U.S.C. 1236(d)	Vessel Navigation: Regattas or Marine Parades; Other Persons	4,454
33 U.S.C. 1321(b)(6)(B)(i)	Oil/Hazardous Substances: Discharges (Class I per violation)	17,816
33 U.S.C. 1321(b)(6)(B)(i)	Oil/Hazardous Substances: Discharges (Class I total under paragraph)	44,539
33 U.S.C. 1321(b)(6)(B)(ii)	Oil/Hazardous Substances: Discharges (Class II per day of violation)	17,816
33 U.S.C. 1321(b)(6)(B)(ii)	Oil/Hazardous Substances: Discharges (Class II total under paragraph)	222,695
33 U.S.C. 1321(b)(7)(A)	Oil/Hazardous Substances: Discharges (per day of violation) Judicial Assessment	44,539
33 U.S.C. 1321(b)(7)(A)	Oil/Hazardous Substances: Discharges (per barrel of oil or unit discharged) Judicial Assessment	1,782
33 U.S.C. 1321(b)(7)(B)	Oil/Hazardous Substances: Failure to Carry Out Removal/Comply With Order (Judicial Assessment).	44,539
33 U.S.C. 1321(b)(7)(C)	Oil/Hazardous Substances: Failure to Comply with Regulation Issued Under 1321(j) (Judicial Assessment).	44,539
33 U.S.C. 1321(b)(7)(D)	Oil/Hazardous Substances: Discharges, Gross Negligence (per barrel of oil or unit discharged) Judicial Assessment.	5,345
33 U.S.C. 1321(b)(7)(D)	Oil/Hazardous Substances: Discharges, Gross Negligence—Minimum Penalty (Judicial Assessment).	178,156
33 U.S.C. 1322(j)	Marine Sanitation Devices; Operating	7,500
33 U.S.C. 1322(j)	Marine Sanitation Devices; Sale or Manufacture	20,000
33 U.S.C. 1608(a)	International Navigation Rules; Operator	14,023
33 U.S.C. 1608(b)	International Navigation Rules; Vessel	14,023

TABLE 1—CIVIL MONETARY PENALTY INFLATION ADJUSTMENTS—Continued

U.S. Code citation	Civil monetary penalty description	2016 adjusted maximum penalty amount (\$)
33 U.S.C. 1908(b)(1)	Pollution from Ships; General	70,117
33 U.S.C. 1908(b)(2)	Pollution from Ships; False Statement	14,023
33 U.S.C. 2072(a)	Inland Navigation Rules; Operator	14,023
33 U.S.C. 2072(b)	Inland Navigation Rules; Vessel	14,023
33 U.S.C. 2609(a)	Shore Protection; General	49,467
33 U.S.C. 2609(b)	Shore Protection; Operating Without Permit	19,787
33 U.S.C. 2716a(a)	Oil Pollution Liability and Compensation	44,539
33 U.S.C. 3852(a)(1)(A)	Clean Hulls; Civil Enforcement	40,779
33 U.S.C. 3852(a)(1)(A)	Clean Hulls; related to false statements	54,373
33 U.S.C. 3852(c)	Clean Hulls; Recreational Vessels	5,437
42 U.S.C. 9609(a)	Hazardous Substances, Releases, Liability, Compensation (Class I)	53,907
42 U.S.C. 9609(b)	Hazardous Substances, Releases, Liability, Compensation (Class II)	53,907
42 U.S.C. 9609(b)	Hazardous Substances, Releases, Liability, Compensation (Class II subsequent offense)	161,721
42 U.S.C. 9609(c)	Hazardous Substances, Releases, Liability, Compensation (Judicial Assessment)	53,907
42 U.S.C. 9609(c)	Hazardous Substances, Releases, Liability, Compensation (Judicial Assessment subsequent offense)	161,721
46 U.S.C. 80509(a)	Safe Containers for International Cargo	5,893
46 U.S.C. 70305(c)	Suspension of Passenger Service	58,929
46 U.S.C. 2110(e)	Vessel Inspection or Examination Fees	8,908
46 U.S.C. 2115	Alcohol and Dangerous Drug Testing	7,251
46 U.S.C. 2302(a)	Negligent Operations: Recreational Vessels	6,559
46 U.S.C. 2302(a)	Negligent Operations: Other Vessels	32,796
46 U.S.C. 2302(c)(1)	Operating a Vessel While Under the Influence of Alcohol or a Dangerous Drug	7,251
46 U.S.C. 2306(a)(4)	Vessel Reporting Requirements: Owner, Charterer, Managing Operator, or Agent	11,293
46 U.S.C. 2306(b)(2)	Vessel Reporting Requirements: Master	2,259
46 U.S.C. 3102(c)(1)	Immersion Suits	11,293
46 U.S.C. 3302(i)(5)	Inspection Permit	2,355
46 U.S.C. 3318(a)	Vessel Inspection; General	11,293
46 U.S.C. 3318(g)	Vessel Inspection; Nautical School Vessel	11,293
46 U.S.C. 3318(h)	Vessel Inspection; Failure to Give Notice IAW 3304(b)	2,259
46 U.S.C. 3318(i)	Vessel Inspection; Failure to Give Notice IAW 3309(c)	2,259
46 U.S.C. 3318(j)(1)	Vessel Inspection; Vessel ≥1600 Gross Tons	22,587
46 U.S.C. 3318(j)(1)	Vessel Inspection; Vessel <1600 Gross Tons	4,517
46 U.S.C. 3318(k)	Vessel Inspection; Failure to Comply with 3311(b)	22,587
46 U.S.C. 3318(l)	Vessel Inspection; Violation of 3318(b)–3318(f)	11,293
46 U.S.C. 3502(e)	List/Count of Passengers	235
46 U.S.C. 3504(c)	Notification to Passengers	23,548
46 U.S.C. 3504(c)	Notification to Passengers; Sale of Tickets	1,177
46 U.S.C. 3506	Copies of Laws on Passenger Vessels; Master	471
46 U.S.C. 3718(a)(1)	Liquid Bulk/Dangerous Cargo	58,871
46 U.S.C. 4106	Uninspected Vessels	9,893
46 U.S.C. 4311(b)(1)	Recreational Vessels (maximum for related series of violations)	311,470
46 U.S.C. 4311(b)(1)	Recreational Vessels; Violation of 4307(a)	6,229
46 U.S.C. 4311(c)	Recreational Vessels	2,355
46 U.S.C. 4507	Uninspected Commercial Fishing Industry Vessels	9,893
46 U.S.C. 4703	Abandonment of Barges	1,677
46 U.S.C. 5116(a)	Load Lines	10,781
46 U.S.C. 5116(b)	Load Lines; Violation of 5112(a)	21,563
46 U.S.C. 5116(c)	Load Lines; Violation of 5112(b)	10,781
46 U.S.C. 6103(a)	Reporting Marine Casualties	37,561
46 U.S.C. 6103(b)	Reporting Marine Casualties; Violation of 6104	9,893
46 U.S.C. 8101(e)	Manning of Inspected Vessels; Failure to Report Deficiency in Vessel Complement	1,782
46 U.S.C. 8101(f)	Manning of Inspected Vessels	17,816
46 U.S.C. 8101(g)	Manning of Inspected Vessels; Employing or Serving in Capacity not Licensed by USCG	17,816
46 U.S.C. 8101(h)	Manning of Inspected Vessels; Freight Vessel <100 GT, Small Passenger Vessel, or Sailing School Vessel.	2,355
46 U.S.C. 8102(a)	Watchmen on Passenger Vessels	2,355
46 U.S.C. 8103(f)	Citizenship Requirements	1,177
46 U.S.C. 8104(i)	Watches on Vessels; Violation of 8104(a) or (b)	17,816
46 U.S.C. 8104(j)	Watches on Vessels; Violation of 8104(c), (d), (e), or (h)	17,816
46 U.S.C. 8302(e)	Staff Department on Vessels	235
46 U.S.C. 8304(d)	Officer's Competency Certificates	235
46 U.S.C. 8502(e)	Coastwise Pilotage; Owner, Charterer, Managing Operator, Agent, Master or Individual in Charge.	17,816
46 U.S.C. 8502(f)	Coastwise Pilotage; Individual	17,816
46 U.S.C. 8503	Federal Pilots	56,467
46 U.S.C. 8701(d)	Merchant Mariners Documents	1,177
46 U.S.C. 8702(e)	Crew Requirements	17,816

TABLE 1—CIVIL MONETARY PENALTY INFLATION ADJUSTMENTS—Continued

U.S. Code citation	Civil monetary penalty description	2016 adjusted maximum penalty amount (\$)
46 U.S.C. 8906	Small Vessel Manning	37,561
46 U.S.C. 9308(a)	Pilotage: Great Lakes; Owner, Charterer, Managing Operator, Agent, Master or Individual in Charge.	17,816
46 U.S.C. 9308(b)	Pilotage: Great Lakes; Individual	17,816
46 U.S.C. 9308(c)	Pilotage: Great Lakes; Violation of 9303	17,816
46 U.S.C. 10104(b)	Failure to Report Sexual Offense	9,468
46 U.S.C. 10314(a)(2)	Pay Advances to Seamen	1,177
46 U.S.C. 10314(b)	Pay Advances to Seamen; Remuneration for Employment	1,177
46 U.S.C. 10315(c)	Allotment to Seamen	1,177
46 U.S.C. 10321	Seamen Protection; General	8,162
46 U.S.C. 10505(a)(2)	Coastwise Voyages: Advances	8,162
46 U.S.C. 10505(b)	Coastwise Voyages: Advances; Remuneration for Employment	8,162
46 U.S.C. 10508(b)	Coastwise Voyages: Seamen Protection; General	8,162
46 U.S.C. 10711	Effects of Deceased Seamen	471
46 U.S.C. 10902(a)(2)	Complaints of Unfitness	1,177
46 U.S.C. 10903(d)	Proceedings on Examination of Vessel	235
46 U.S.C. 10907(b)	Permission to Make Complaint	1,177
46 U.S.C. 11101(f)	Accommodations for Seamen	1,177
46 U.S.C. 11102(b)	Medicine Chests on Vessels	1,177
46 U.S.C. 11104(b)	Destitute Seamen	235
46 U.S.C. 11105(c)	Wages on Discharge	1,177
46 U.S.C. 11303(a)	Log Books; Master Failing to Maintain	471
46 U.S.C. 11303(b)	Log Books; Master Failing to Make Entry	471
46 U.S.C. 11303(c)	Log Books; Late Entry	353
46 U.S.C. 11506	Carrying of Sheath Knives	118
46 U.S.C. 12151(a)(1)	Vessel Documentation	15,423
46 U.S.C. 12151(a)(2)	Documentation of Vessels—Related to activities involving mobile offshore drilling units	25,705
46 U.S.C. 12151(c)	Vessel Documentation; Fishery Endorsement	117,858
46 U.S.C. 12309(a)	Numbering of Undocumented Vessels—Willful violation	11,774
46 U.S.C. 12309(b)	Numbering of Undocumented Vessels	2,355
46 U.S.C. 12507(b)	Vessel Identification System	19,787
46 U.S.C. 14701	Measurement of Vessels	43,126
46 U.S.C. 14702	Measurement; False Statements	43,126
46 U.S.C. 31309	Commercial Instruments and Maritime Liens	19,787
46 U.S.C. 31330(a)(2)	Commercial Instruments and Maritime Liens; Mortgagor	19,787
46 U.S.C. 31330(b)(2)	Commercial Instruments and Maritime Liens; Violation of 31329	49,467
46 U.S.C. 70119(a)	Port Security	32,796
46 U.S.C. 70119(b)	Port Security—Continuing Violations	58,929
46 U.S.C. 70506	Maritime Drug Law Enforcement; Penalties	5,437
49 U.S.C. 5123(a)(1)	Hazardous Materials: Related to Vessels—Maximum Penalty	77,114
49 U.S.C. 5123(a)(2)	Hazardous Materials: Related to Vessels—Penalty from Fatalities, Serious Injuries/Illness or Substantial Damage to Property.	179,933
49 U.S.C. 5123(a)(3)	Hazardous Materials: Related to Vessels—Training.	463

¹ 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 is revised 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; Pub. L. 104–134, as amended by Pub. L. 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, \$11,002 per violation, up to a total of \$55,010 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, \$11,002 per violation, up to a total of \$440,080 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, \$12,856 per violation, up to a total of 64,281 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, \$12,856 per violation, up to a total of \$514,244 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, \$32,140 per violation, up to a total of \$514,244 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.

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BILLING CODE 9110-09-P; 9111-14-P; 9111-28-P;
9110-04-P; 9110-05-P

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

7 CFR Part 1590

RIN 0551-AA87

Local and Regional Food Aid Procurement Program

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Final rule with request for comments.

SUMMARY: This document establishes rules to govern the award of funds by the Foreign Agricultural Service (FAS) to recipients under the USDA Local and Regional Food Aid Procurement Program (USDA LRP Program). Section 3206 of the Food, Conservation, and Energy Act of 2008, as amended by the Agricultural Act of 2014, provides that the Secretary of Agriculture will provide grants to, or enter into cooperative agreements with, eligible organizations to implement field-based projects that consist of local or regional procurements of eligible commodities in developing countries to provide development assistance and respond to food crises and disasters. The intended effects of the USDA LRP Program are to support development activities aimed at strengthening the trade capacity of food-insecure developing countries and to address the cause of chronic food insecurity. The regulation also addresses how emergency programming will be addressed.

DATES: Effective July 1, 2016.

Comment Dates: Written comments must be received by FAS or carry a postmark or equivalent no later than August 30, 2016.

ADDRESSES: Submit comments to:

- *Federal Rulemaking Portal:* Go to <http://www.regulations.gov>. Follow the instructions for submitting comments.
 - Director, Food Assistance Division, Office of Capacity Building and Development, Foreign Agricultural Service, 1400 Independence Ave. SW., STOP 1034, Washington, DC 20250.
- FOR FURTHER INFORMATION CONTACT:** Director, Food Assistance Division, Office of Capacity Building and Development, Foreign Agricultural Service, 1400 Independence Ave. SW., STOP 1034, Washington, DC 20250. Telephone: (202) 720-4221; Fax: (202) 690-0251; Email: FAD_Contact@fas.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

Overview

Section 3206 of the Food, Conservation, and Energy Act of 2008 (the “2008 Farm Bill”), as amended by the Agricultural Act of 2014 (the “2014 Farm Bill”), provides that the Secretary of Agriculture will establish a program to provide grants to, or enter into cooperative agreements with, eligible organizations to procure locally or regionally produced commodities to respond to food crises and disasters. International nongovernmental organizations (NGOs) and intergovernmental organizations, like

the World Food Program (WFP), have successfully utilized local and regional procurement over the last decade. Local and regional procurement, which has increasingly become a key element in the multilateral food aid response, is used to purchase food in countries affected by disasters and food crises or in a different country within the same region.

Currently many bilateral food assistance donors have shifted from commodity-based in-kind food aid to a cash-based food assistance program. The World Food Program has cited that the use of cash-based programs enables NGOs and intergovernmental organizations to purchase food locally or regionally in order to deliver assistance to beneficiaries quickly and cost-effectively, while also providing development benefits to local communities by strengthening agricultural markets where the food is purchased.

Several academic and other studies have cited significant cost and time savings for certain commodities and in certain areas.¹ For example, GAO found that in Sub-Saharan Africa, local procurement cost about 34 percent less than similar in-kind U.S. food aid shipments. Some studies cited by the Government Accountability Office noted that large cash purchases in some developing countries could have detrimental effects on local market conditions if not carefully done. In cases where local purchases might substantially raise local market prices, in-kind donations of commodities may be more beneficial. Similarly, GAO and others have noted that in-kind donations can also have detrimental effects depending on local market conditions, depressing local farmers’ prices if not carefully done. As the largest international food aid donor, contributing over half of all global food aid supplies to alleviate hunger and support development, the United States plays an important role in responding to

¹ See, for example, Erin C. Lentz, Simone Passarelli, Christopher B. Barrett, “The Timeliness and Cost-Effectiveness of the Local and Regional Procurement of Food Aid,” World Development, Available online 1 March 2013, ISSN 0305-750X, 10.1016/j.worlddev.2013.01.017; Barrett, Christopher B., Samuel D. Bell, Teevrat Garg, Miguel I. Gomez, Aurélie P. Harou, Erin C. Lentz, Simone Passarelli, Joanna B. Upton and William J. Violette. “Final Report: A Multidimensional Analysis of Local and Regional Procurement of US Food Aid,” January 2012. Cornell University; and General Accountability Office, *Local and Regional Procurement Can Enhance the Efficiency of U.S. Food Aid, but Challenges May Constrain Its Implementation*. GAO-09-570: Published: May 29, 2009. Publicly Released: Jun 4, 2009. <http://www.gao.gov/products/GAO-09-570>. Appendix VI of the GAO report includes a review of literature on local and regional procurement.