

Office of Management and Budget under the Paperwork Reduction Act.²³

D. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Bureau will submit a report containing this rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the United States prior to the rule taking effect. The Office of Information and Regulatory Affairs (OIRA) has designated this rule as not a “major rule” as defined by 5 U.S.C. 804(2).

List of Subjects in 12 CFR Part 1083

Administrative practice and procedure, Consumer protection, Penalties.

Authority and Issuance

For the reasons set forth in the preamble, the Bureau amends 12 CFR part 1083 as set forth below:

PART 1083—CIVIL PENALTY ADJUSTMENTS

■ 1. The authority citation for part 1083 continues to read as follows:

Authority: 12 U.S.C. 2609(d); 12 U.S.C. 5113(d)(2); 12 U.S.C. 5565(c); 15 U.S.C. 1639e(k); 15 U.S.C. 1717a(a); 28 U.S.C. 2461 note.

■ 2. Section 1083.1 is revised to read as follows:

§ 1083.1 Adjustment of civil penalty amounts.

(a) The maximum amount of each civil penalty within the jurisdiction of the Consumer Financial Protection Bureau to impose is adjusted in accordance with the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996 and further amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (28 U.S.C. 2461 note), as follows:

Law	Penalty description	Adjusted maximum civil penalty amount
12 U.S.C. 5565(c)(2)(A)	Tier 1 penalty	\$5,883
12 U.S.C. 5565(c)(2)(B)	Tier 2 penalty	29,416
12 U.S.C. 5565(c)(2)(C)	Tier 3 penalty	1,176,638
15 U.S.C. 1717a(a)(2)	Per violation	2,050
15 U.S.C. 1717a(a)(2)	Annual cap	2,048,915
12 U.S.C. 2609(d)(1)	Per failure	96
12 U.S.C. 2609(d)(1)	Annual cap	192,768
12 U.S.C. 2609(d)(2)(A)	Per failure, where intentional	193
12 U.S.C. 5113(d)(2)	Per violation	29,707
15 U.S.C. 1639e(k)(1)	First violation	11,767
15 U.S.C. 1639e(k)(2)	Subsequent violations	23,533

(b) The adjustments in paragraph (a) of this section shall apply to civil penalties assessed after January 15, 2020, whose associated violations occurred on or after November 2, 2015.

Dated: January 8, 2020.

Thomas Pahl,

Policy Associate Director, Bureau of Consumer Financial Protection.

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FEDERAL TRADE COMMISSION

16 CFR Part 1

Adjustments to Civil Penalty Amounts

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission (“FTC” or “Commission”) is implementing adjustments to the civil penalty amounts within its jurisdiction to account for inflation, as required by law.

DATES: Effective January 14, 2020.

FOR FURTHER INFORMATION CONTACT:

Kenny A. Wright, Attorney, Office of the General Counsel, FTC, 600 Pennsylvania Avenue NW, Washington, DC 20580, (202-326-2907), *kwright@ftc.gov*.

SUPPLEMENTARY INFORMATION:

The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015¹ directs agencies to adjust the civil penalty maximums under their jurisdiction for inflation every January. Accordingly, the Commission issues annual adjustments to the maximum civil penalty amounts under its jurisdiction.²

Commission Rule § 1.98 sets forth the applicable civil penalty amounts for violations of certain laws enforced by the Commission.³ As directed by the FCPIAA, the Commission is issuing adjustments to increase these maximum civil penalty amounts to address inflation since its prior 2019 adjustment. The following adjusted amounts will take effect on January 14, 2020:

- Section 7A(g)(1) of the Clayton Act, 15 U.S.C. 18a(g)(1) (premerger filing notification violations under the Hart-Scott-Rodino Improvements Act)—Increase from \$42,530 to \$43,280;
- Section 11(l) of the Clayton Act, 15 U.S.C. 21(l) (violations of cease and desist orders issued under Clayton Act section 11(b))—Increase from \$22,595 to \$22,994;
- Section 5(l) of the FTC Act, 15 U.S.C. 45(l) (unfair or deceptive acts or practices)—Increase from \$42,530 to \$43,280;
- Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. 45(m)(1)(A) (unfair or deceptive acts or practices)—Increase from \$42,530 to \$43,280;
- Section 5(m)(1)(B) of the FTC Act, 15 U.S.C. 45(m)(1)(B) (unfair or deceptive acts or practices)—Increase from \$42,530 to \$43,280;
- Section 10 of the FTC Act, 15 U.S.C. 50 (failure to file required reports)—Increase from \$559 to \$569;
- Section 5 of the Webb-Pomerene (Export Trade) Act, 15 U.S.C. 65 (failure by associations engaged solely in export

²³ 44 U.S.C. 3501-3521.

¹ Public Law 114-74, sec. 701, 129 Stat. 599 (2015). The Act amends the Federal Civil Penalties

Inflation Adjustment Act (“FCPIAA”), Public Law 101-410, 104 Stat. 890 (codified at 28 U.S.C. 2461 note).

² 81 FR 42476 (June 30, 2016); 82 FR 8135 (2017); 83 FR 2902 (2018); 84 FR 3980 (2019).

³ 16 CFR 1.98.

trade to file required statements)—Increase from \$559 to \$569;

- Section 6(b) of the Wool Products Labeling Act, 15 U.S.C. 68d(b) (failure by wool manufacturers to maintain required records)—Increase from \$559 to \$569;
- Section 3(e) of the Fur Products Labeling Act, 15 U.S.C. 69a(e) (failure to maintain required records regarding fur products)—Increase from \$559 to \$569;
- Section 8(d)(2) of the Fur Products Labeling Act, 15 U.S.C. 69f(d)(2) (failure to maintain required records regarding fur products)—Increase from \$559 to \$569;
- Section 333(a) of the Energy Policy and Conservation Act, 42 U.S.C. 6303(a) (knowing violations of EPCA sec. 332, including labeling violations)—Increase from \$460 to \$468;
- Section 525(a) of the Energy Policy and Conservation Act, 42 U.S.C. 6395(a) (recycled oil labeling violations)—Increase from \$22,595 to \$22,994;
- Section 525(b) of the Energy Policy and Conservation Act, 42 U.S.C. 6395(b)

(willful violations of recycled oil labeling requirements)—Increase from \$42,530 to \$43,280;

- Section 621(a)(2) of the Fair Credit Reporting Act, 15 U.S.C. 1681s(a)(2) (knowing violations of the Fair Credit Reporting Act)—Increase from \$3,993 to \$4,063;
- Section 1115(a) of the Medicare Prescription Drug Improvement and Modernization Act of 2003, Pub. L. 108–173, as amended by Pub. L. 115–263, 21 U.S.C. 355 note (failure to comply with filing requirements)—Increase from \$15,036 to \$15,301; and
- Section 814(a) of the Energy Independence and Security Act of 2007, 42 U.S.C. 17304 (violations of prohibitions on market manipulation and provision of false information to federal agencies)—Increase from \$1,210,340 to \$1,231,690.

Calculation of Inflation Adjustments

The FCPIAA, as amended, directs federal agencies to adjust each civil

monetary penalty under their jurisdiction for inflation in January of each year pursuant to a cost-of-living adjustment.⁴ The cost-of-living adjustment is based on the percent change between the U.S. Department of Labor’s Consumer Price Index for all-urban consumers (“CPI-U”) for the month of October preceding the date of the adjustment, and the CPI-U for October of the prior year.⁵ Based on that formula, the cost-of-living adjustment multiplier for 2020 is 1.01764. The FCPIAA also directs that these penalty level adjustments should be rounded to the nearest dollar. Agencies do not have discretion over whether to adjust a maximum civil penalty, or the method used to determine the adjustment.

The following chart illustrates the application of these adjustments to the civil monetary penalties under the Commission’s jurisdiction.

CALCULATION OF ADJUSTMENTS TO MAXIMUM CIVIL MONETARY PENALTIES

Citation	Description	2019 penalty level	Adjustment multiplier	2020 penalty level (rounded to the nearest dollar)
16 CFR 1.98(a): 15 U.S.C. 18a(g)(1)	Premerger filing notification violations	\$42,530	1.01764	\$43,280
16 CFR 1.98(b): 15 U.S.C. 21(j)	Violations of cease and desist orders	22,595	1.01764	22,994
16 CFR 1.98(c): 15 U.S.C. 45(j)	Unfair or deceptive acts or practices	42,530	1.01764	43,280
16 CFR 1.98(d): 15 U.S.C. 45(m)(1)(A)	Unfair or deceptive acts or practices	42,530	1.01764	43,280
16 CFR 1.98(e): 15 U.S.C. 45(m)(1)(B)	Unfair or deceptive acts or practices	42,530	1.01764	43,280
16 CFR 1.98(f): 15 U.S.C. 50	Failure to file required reports	559	1.01764	569
16 CFR 1.98(g): 15 U.S.C. 65	Failure to file required statements	559	1.01764	569
16 CFR 1.98(h): 15 U.S.C. 68d(b)	Failure to maintain required records	559	1.01764	569
16 CFR 1.98(i): 15 U.S.C. 69a(e)	Failure to maintain required records	559	1.01764	569
16 CFR 1.98(j): 15 U.S.C. 69f(d)(2)	Failure to maintain required records	559	1.01764	569
16 CFR 1.98(k): 42 U.S.C. 6303(a)	Knowing violations	460	1.01764	468
16 CFR 1.98(l): 42 U.S.C. 6395(a)	Recycled oil labeling violations	22,595	1.01764	22,994
16 CFR 1.98(j): 42 U.S.C. 6395(b)	Willful violations	42,530	1.01764	43,280
16 CFR 1.98(m): 15 U.S.C. 1681s(a)(2)	Knowing violations	3,993	1.01764	4,063
16 CFR 1.98(n): 21 U.S.C. 355 note	Non-compliance with filing requirements	15,036	1.01764	15,301
16 CFR 1.98(o): 42 U.S.C. 17304	Market manipulation or provision of false information to federal agencies.	1,210,340	1.01764	1,231,690

Effective Dates of New Penalties

These new penalty levels apply to civil penalties assessed after the effective date of the applicable adjustment, including civil penalties whose associated violation predated the effective date.⁶ These adjustments do not retrospectively change previously assessed or enforced civil penalties that the FTC is actively collecting or has collected.

Procedural Requirements

The FCPIAA, as amended, directs agencies to adjust civil monetary penalties through rulemaking and to publish the required inflation adjustments in the **Federal Register**, notwithstanding section 553 of title 5, United States Code. Pursuant to this congressional mandate, prior public notice and comment under the APA and a delayed effective date are not required.

For this reason, the requirements of the Regulatory Flexibility Act (“RFA”) also do not apply.⁷ Further, this rule does not contain any collection of information requirements as defined by the Paperwork Reduction Act of 1995 as amended. 44 U.S.C. 3501 *et seq.*

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs

⁴ 28 U.S.C. 2461 note (4).

⁵ *Id.* (3), (5)(b); Office of Management and Budget, Memorandum M–20–05, *Implementation of Penalty Inflation Adjustments for 2020, Pursuant to the Federal Civil Penalties Inflation Adjustment Act*

Improvements Act of 2015 (December 16, 2019), available at: <https://www.whitehouse.gov/wp-content/uploads/2019/12/M-20-05.pdf>.

⁶ 28 U.S.C. 2461 note (6).

⁷ A regulatory flexibility analysis under the RFA is required only when an agency must publish a notice of proposed rulemaking for comment. *See* 5 U.S.C. 603.

designated this rule as not a “major rule,” as defined by 5 U.S.C. 804(2).

List of Subjects for 16 CFR Part 1

Administrative practice and procedure, Penalties, Trade practices.

Text of Amendments

For the reasons set forth in the preamble, the Federal Trade Commission amends title 16, chapter I, subchapter A, of the Code of Federal Regulations, as follows:

PART 1—GENERAL PROCEDURES

Subpart L—Civil Penalty Adjustments Under the Federal Civil Penalties Inflation Adjustment Act of 1990, as Amended

- 1. The authority citation for part 1, subpart L, continues to read as follows:

Authority: 28 U.S.C. 2461 note.

- 2. Revise § 1.98 to read as follows:

§ 1.98 Adjustment of civil monetary penalty amounts.

This section makes inflation adjustments in the dollar amounts of civil monetary penalties provided by law within the Commission’s jurisdiction. The following maximum civil penalty amounts apply only to penalties assessed after January 14, 2020, including those penalties whose associated violation predated January 14, 2020.

- (a) Section 7A(g)(1) of the Clayton Act, 15 U.S.C. 18a(g)(1)—\$43,280;
- (b) Section 11(I) of the Clayton Act, 15 U.S.C. 21(I)—\$22,994;
- (c) Section 5(I) of the FTC Act, 15 U.S.C. 45(I)—\$43,280;
- (d) Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. 45(m)(1)(A)—\$43,280;
- (e) Section 5(m)(1)(B) of the FTC Act, 15 U.S.C. 45(m)(1)(B)—\$43,280;
- (f) Section 10 of the FTC Act, 15 U.S.C. 50—\$569;
- (g) Section 5 of the Webb-Pomerene (Export Trade) Act, 15 U.S.C. 65—\$569;
- (h) Section 6(b) of the Wool Products Labeling Act, 15 U.S.C. 68d(b)—\$569;
- (i) Section 3(e) of the Fur Products Labeling Act, 15 U.S.C. 69a(e)—\$569;
- (j) Section 8(d)(2) of the Fur Products Labeling Act, 15 U.S.C. 69f(d)(2)—\$569;
- (k) Section 333(a) of the Energy Policy and Conservation Act, 42 U.S.C. 6303(a)—\$468;
- (l) Sections 525(a) and (b) of the Energy Policy and Conservation Act, 42 U.S.C. 6395(a) and (b), respectively—\$22,994 and \$43,280, respectively;
- (m) Section 621(a)(2) of the Fair Credit Reporting Act, 15 U.S.C. 1681s(a)(2)—\$4,063;
- (n) Section 1115(a) of the Medicare Prescription Drug Improvement and

Modernization Act of 2003, Public Law 108–173, as amended by Public Law 115–263, 21 U.S.C. 355 note—\$15,301;

(o) Section 814(a) of the Energy Independence and Security Act of 2007, 42 U.S.C. 17304—\$1,231,690; and

(p) Civil monetary penalties authorized by reference to the Federal Trade Commission Act under any other provision of law within the jurisdiction of the Commission—refer to the amounts set forth in paragraphs (c), (d), (e), and (f) of this section, as applicable.

By direction of the Commission.

April J. Tabor,

Acting Secretary.

[FR Doc. 2020–00314 Filed 1–13–20; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 250 and 385

[Docket No. RM20–2–000; Order No. 865]

Civil Monetary Penalty Inflation Adjustments

AGENCY: Federal Energy Regulatory Commission, Department of Energy.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is issuing a final rule to amend its regulations governing the maximum civil monetary penalties assessable for violations of statutes, rules, and orders within the Commission’s jurisdiction. The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended most recently by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, requires the Commission to issue this final rule.

DATES: This final rule is effective January 14, 2020.

FOR FURTHER INFORMATION CONTACT: Todd Hettenbach, Attorney, Office of Enforcement, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, (202) 502–8794, Todd.Hettenbach@ferc.gov.

SUPPLEMENTARY INFORMATION:

1. In this final rule, the Federal Energy Regulatory Commission (Commission) is complying with its statutory obligation to amend the civil monetary penalties provided by law for matters within the agency’s jurisdiction.

I. Background

2. The Federal Civil Penalties Inflation Adjustment Act Improvements

Act of 2015 (2015 Adjustment Act),¹ which further amended the Federal Civil Penalties Inflation Adjustment Act of 1990 (1990 Adjustment Act),² required the head of each Federal agency to issue a rule by July 2016 adjusting for inflation each “civil monetary penalty” provided by law within the agency’s jurisdiction and to make further inflation adjustments on an annual basis every January 15 thereafter.³

II. Discussion

3. The 2015 Adjustment Act defines a civil monetary penalty as any penalty, fine, or other sanction that: (A)(i) Is for a specific monetary amount as provided by Federal law; or (ii) has a maximum amount provided for by Federal law; (B) is assessed or enforced by an agency pursuant to Federal law; and (C) is assessed or enforced pursuant to an administrative proceeding or a civil action in the Federal courts.⁴ This definition applies to the maximum civil penalties that may be imposed under the Federal Power Act (FPA),⁵ the Natural Gas Act (NGA),⁶ the Natural Gas Policy Act of 1978 (NGPA),⁷ and the Interstate Commerce Act (ICA).⁸

4. Under the 2015 Adjustment Act, the first step for such adjustment of a civil monetary penalty for inflation requires determining the percentage by which the U.S. Department of Labor’s Consumer Price Index for all-urban consumers (CPI-U) for October of the preceding year exceeds the CPI-U for October of the year before that.⁹

The CPI-U for October 2019 exceeded the CPI-U for October 2018 by 1.764 percent.¹⁰

5. The second step requires multiplying the CPI-U percentage increase by the applicable existing maximum civil monetary penalty.¹¹

¹ Sec. 701, Public Law 114–74, 129 Stat. 584, 599.

² Public Law 101–410, 104 Stat. 890 (codified as amended at 28 U.S.C. 2461 note).

³ 28 U.S.C. 2461 note, at (4). The Commission made its January 2019 adjustment on January 8, 2019, in Docket No. RM19–9–000. See *Civil Monetary Penalty Inflation Adjustments*, Order No. 853, 84 FR 966 (Feb. 1, 2019), FERC Stats. & Regs. ¶ 31,408 (2019).

⁴ *Id.* (3).

⁵ 16 U.S.C. 791a *et seq.*

⁶ 15 U.S.C. 717 *et seq.*

⁷ 15 U.S.C. 3301 *et seq.*

⁸ 49 App. U.S.C. 1 *et seq.* (1988).

⁹ 28 U.S.C. 2461 note, at (5)(b)(1).

¹⁰ See, e.g., Memorandum from Russell T. Vought, Office of Management and Budget, Implementation of the Penalty Inflation Adjustments for 2019, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Dec. 16, 2019).

¹¹ *Id.* (5)(a).