

requirements are consistent with the purposes of the original program, some of the comments in response to the original rule, and with the available funding. The regulations specify that no more than \$175 million in total may be expended under the SHOP program with the claims of old claimants given a first priority. For new claimants, the claims will be handled first-come, first-served, to the extent the \$175 million total has not been expended. However, it is expected that the total claims will be considerably below that amount.

Hog operations may apply in person at county FSA offices during regular business hours by the close of business September 24, 1999, and at that time complete the application Form FSA-1042. Hog operations who applied for and received payment under the February 1999 SHOP program interim rule do not need to re-apply. Additional payments will be issued based upon the original application. Hog operations needing an application may request the SHOP program application by mail, telephone, or facsimile from their designated county FSA office, or obtain the application via the Internet. The Internet website is located at [www.fsa.usda.gov/dafp/psd/](http://www.fsa.usda.gov/dafp/psd/). The completed application, Form FSA-1042, must be received by the hog operations' local county FSA office by the September 24 deadline and can be returned in person, by mail, or by facsimile.

Because of the poor market conditions that have recently faced hog operations as specified in the February rule, particularly that have faced small hog operations, a delay in making this assistance available would be contrary to the public interest and the purpose of the statute authorizing additional assistance. Likewise and for those reasons it has been determined that to the extent that Section 801 of the Small Business Regulatory Enforcement Fairness Act of 1996 would otherwise apply, delaying this rule for Congressional review would be contrary to the public interest. Accordingly, it has been determined that this rule will be made effective immediately upon filing for public inspection at the Office of the Federal Register.

#### List of Subjects in 7 CFR Part 761

Direct payments to small hog operations, Reporting and recordkeeping requirements.

Accordingly, 7 CFR Part 761 is amended to read as follows:

#### PART 761—SMALL HOG OPERATION PAYMENT PROGRAM

1. The authority citation for part 761 continues to read as follows:

**Authority:** 7 U.S.C. 612c.

2. Amend § 761.4 by removing "February 12, 1999" and adding in its place "September 24, 1999".

3. Amend § 761.5 by removing "1,000" and adding in its place "2,500".

\* \* \* \* \*

4. Revise § 761.6 to read as follows:

#### § 761.6 Rate of payment and limitations on funding.

(a) Benefits under this part may be made to hog operations for the quantity of eligible slaughter hogs and feeder pigs actually marketed during the marketing period in accordance with the limitations set forth in this section. Payments will be calculated by operation and shall be made in an amount determined by:

(1) Multiplying \$3.60 by the number of eligible feeder pigs marketed during the marketing period; plus

(2) Multiplying \$10 by the number of eligible slaughter hogs marketed during the marketing period;

(3) Limiting the payment per hog operation otherwise calculated under paragraphs (a)(1) and (2) of this section to \$5,000; and

(4) Reducing the amount due as calculated under paragraphs (a)(1) through (3) of this section by amounts previously paid under this part based on marketings in the same period and, for claims filed after February 12, 1999, by reducing the payment further to zero as necessary to insure subject to paragraph (c), that the total payments under this part do not exceed \$175 million.

(b) Producers who filed an application under this part prior to February 12, 1999, do not need to file another application in order to receive benefits at the increased rates announced in the **Federal Register** published on August 30, 1999. A producer who wishes to amend an application filed prior to February 12, 1999, may file an amended application by the deadline for new applications specified in § 761.4 of this part.

(c) To the extent that \$175 million is not sufficient to cover all claims under this part, claims filed on or before February 12, 1999, shall be paid in full for the eligible hogs and feeder pigs which were the subject of that claim. For claims filed after that date, the claims will be paid in the manner deemed appropriate by FSA to assure, to the extent practicable, that the claims are paid in the order in which they are

filed, until the available funds are expended at which point no additional claims will be paid.

Signed at Washington, DC, on August 29, 1999.

**Parks Shackelford,**

*Acting Administrator, Farm Service Agency.*

[FR Doc. 99-22484 Filed 8-26-99; 10:09 am]

BILLING CODE 3410-05-P

#### DEPARTMENT OF JUSTICE

#### Immigration and Naturalization Service

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

#### 28 CFR Parts 20, 22, 36, 71, 76, and 85

[AG Order No. 2249-99]

RIN 1105-AA48

#### Civil Monetary Penalties Inflation Adjustment

**AGENCY:** Office of the Attorney General, Justice.

**ACTION:** Final rule.

**SUMMARY:** In accordance with the requirements of section 4 of the Federal Civil Monetary Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, the United States Department of Justice is publishing this regulation adjusting for inflation the civil monetary penalties assessed or enforced by the Department.

**DATES:** This rule is effective September 29, 1999.

**FOR FURTHER INFORMATION CONTACT:** Robert Hinchman, Senior Counsel, Office of Policy Development, Department of Justice, Room 4258, Main Building, 950 Pennsylvania Avenue, NW., Washington, DC. 20530, (202) 514-8059.

#### SUPPLEMENTARY INFORMATION:

#### Background

#### Why Is the Justice Department Revising Its Civil Monetary Penalties?

The Federal Civil Monetary Penalties Inflation Adjustment Act of 1990, Pub. L. 101-410 (Adjustment Act), provides for the regular evaluation of civil monetary penalties to ensure that they continue to maintain their deterrent effect and that penalty amounts due the Federal Government are properly accounted for and collected.

On April 26, 1996, President Clinton signed into law the Omnibus Consolidated Rescissions and Appropriations Act of 1996, Pub. L. 104-134. Section 31001 of that Act, also known as the Debt Collection

Improvement Act of 1996 (Improvement Act), amended the Adjustment Act to provide for more effective tools for government wide collection of delinquent debt.

In particular, section 31001(s)(1) of the Improvement Act amended section 4 of the Adjustment Act to require the head of each agency to "by regulation adjust each civil monetary penalty provided by law within the jurisdiction of the Federal agency" and to "publish each such regulation in the **Federal Register**" not later than one hundred eighty days after enactment of the Debt Collection Improvement Act of 1996. Subsection (s)(1) also added a new section 7 to the Adjustment Act providing that any increase in a civil monetary penalty made pursuant to this Act shall apply only to violations that occur after the date the increase takes effect.

#### **Is There a Limit on the First Adjustment of These Penalties?**

Subsection (s)(2) of the Improvement Act provides that the first adjustment of a civil monetary penalty made pursuant to the amendment in subsection (s)(1) may not exceed 10 percent of such penalty.

#### **How Often Will These Penalties be Adjusted for Inflation?**

The adjustment for inflation required by the Adjustment Act must be done every four years. Pursuant to the Improvement Act, the first adjustment was required by October 23, 1996.

#### **What Penalties Imposed Pursuant to the Immigration Reform and Control Act of 1986 Does This Rule Adjust and What Penalties Were Adjusted by a Recently Published EOIR Rule?**

This rule adjusts, among other things, penalties listed in 8 CFR part 274a that the Immigration and Naturalization Service (INS) imposes pursuant to 8 U.S.C. 1324a for various specified unlawful acts pertaining to the employment of unauthorized aliens. On January 12, 1999, the Executive Office for Immigration Review (EOIR) issued a rule adjusting civil monetary penalties within its area. 64 FR 7066. The adjustment of EOIR penalties included penalties at 28 CFR 68.52(d) that are imposed pursuant to 8 U.S.C. 1324b for unfair employment practices, including discrimination. The Office of Special Counsel for Immigration Related Unfair Employment Practices, Civil Rights Division, is authorized to seek these penalties at hearings presided over by EOIR Administrative Law Judges. The adjustment of these two sets of penalties by this rule and by the recent EOIR rule

maintains parity among fines imposed for violating the employer sanctions and the anti-discrimination provisions of the Immigration Reform and Control Act of 1986.

This rule fulfills the Attorney General's obligations under the Improvement Act with respect to all civil monetary penalties, except those pertaining to EOIR.

#### **Are There Any Related Regulations of Other Federal Agencies That Readers of This Rule Should Consult?**

The Office of Government Ethics (OGE) is publishing elsewhere in this issue of the **Federal Register** a rule adjusting for inflation certain Ethics Act and Ethics Reform Act civil monetary penalties that are codified at 5 CFR part 2634 and 5 CFR part 2636. Because the Department's Civil Division brings Ethics Act enforcement actions, the Department and OGE have coordinated the issuance of these regulations. For the convenience of the reader, the Department is including in this rule adjustments to the same Ethics Act and Ethics Reform Act penalties that OGE is making today, in the same amount and effective on the same day as the adjustments contained in the OGE rule. Further, as OGE notes in the preamble to its rule, the Department and OGE have determined that the \$200 late filing fee for public financial disclosure reports that are more than 30 days overdue (see section 105(d) of the Ethics Act, 5 U.S.C. app. 105(d) and 5 CFR 2634.704) is not a civil monetary penalty as defined by the Federal Civil Penalties Inflation Adjustment Act, as amended. Therefore, that fee is not being adjusted.

The Department's litigating components bring suit to collect various civil monetary penalties of other agencies as well. The reader should consult the regulations of those other agencies for any inflation adjustments of their penalties.

#### **Are There Any Penalties That Are Not Being Adjusted?**

The Department notes that various civil penalties contained in Title 8, Title 21, and Title 28 are *not* being adjusted by this rule because they have been in effect for a short number of years or because the penalty scheme is new. Penalties not being adjusted by this rule will be adjusted, if appropriate, during the next adjustment required by the Debt Collection Improvement Act.

#### **Administrative Procedure Act, 5 U.S.C. 553**

The Department finds that good cause exists under 5 U.S.C. 553(b)(B) and

(d)(3) for immediate implementation of this final rule without prior notice and comment. This rule is a nondiscretionary ministerial action to conform the amount of civil penalties assessed or enforced by the Department of Justice to the statutorily mandated ranges. The calculation of these adjustments follows the mathematical formula set forth in section 5 of the Adjustment Act.

#### **Regulatory Flexibility Act**

The Attorney General in accordance with the Regulatory Flexibility Act, 5 U.S.C. 605(b), has reviewed this rule and by approving it certifies that it will not have a significant economic impact on a substantial number of small entities. Only those entities which are determined to have violated Federal law and regulations would be affected by the increase in penalties made by this rule pursuant to the statutory requirement.

#### **Executive Order 12866**

This rule has been drafted and reviewed in accordance with Executive Order 12866, section 1(b), Principles of Regulation. The Department of Justice has determined that this rule is not a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review, and accordingly this rule has not been reviewed by the Office of Management and Budget.

#### **Executive Order 12612**

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

#### **Executive Order 12988—Civil Justice Reform**

This regulation meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

#### **Unfunded Mandates Reform Act of 1995**

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

**Small Business Regulatory Enforcement Fairness Act of 1996**

This rule is not a major rule as defined by the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 804. It will not result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

**Plain Language Instructions**

We try to write clearly. If you can suggest how to improve the clarity of these regulations, call or write Robert Hinchman, Senior Counsel, Office of Policy Development, Department of Justice, Room 4258, Main Building, 950 Pennsylvania Avenue, N.W., Washington, D.C. 20530, (202) 514-8059.

**List of Subjects****8 CFR Part 270**

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

**8 CFR Part 274a**

Administrative practice and procedure, Aircraft, Immigration, Law enforcement, Motor carriers, Motor vehicles, Seizures and forfeitures, Vessels.

**8 CFR Part 280**

Administrative practice and procedure, Immigration, Penalties.

**28 CFR Part 20**

Crime, Penalties, Research, and Statistics.

**28 CFR Part 22**

Crime, Juvenile delinquency, Penalties, Privacy, Research, and Statistics.

**28 CFR Part 36**

Administrative practice and procedure, Alcoholism, Americans with disabilities, Buildings, Business and industry, Civil rights, Consumer protection, Drug abuse, Handicapped, Historic preservation, Penalties, Reporting and recordkeeping requirements.

**28 CFR Part 71**

Claims, Fraud, Organization and function (Government agencies), Penalties.

**28 CFR Part 76**

Drug traffic control, Drug abuse, Authority delegations (Government agencies), Penalties.

**28 CFR Part 85****Penalties.**

Accordingly, for the reasons set forth in the preamble, chapter I of Title 8 and chapter I of Title 28 of the Code of Federal Regulations are amended as follows:

**TITLE 8—ALIENS AND NATIONALITY****PART 270—PENALTIES FOR DOCUMENT FRAUD**

1. 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.

2. Section 270.3 is amended by revising paragraph (b)(1)(ii) to read as follows:

**§ 270.3 Penalties.**

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(ii) To pay a civil penalty as follows:

(A) *First offense.* Not less than \$250 and not exceeding \$2,000 for each fraudulent document or each proscribed activity described in section 274C(a)(1) through (a)(4) of the Act before September 29, 1999, and not less than \$275 and not exceeding \$2,200, for each fraudulent document or each proscribed activity on or after September 29, 1999.

(B) *Subsequent offenses.* Not less than \$2,000 and not more than \$5,000 for each fraudulent document or each proscribed activity described in section 274C(a)(1) through (a)(4) of the Act before September 29, 1999, and not less than \$2,200 and not exceeding \$5,500, for each fraudulent document or each proscribed activity occurring on or after September 29, 1999.

\* \* \* \* \*

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

3. The authority citation for part 274a is revised to read as follows:

**Authority:** 8 U.S.C. 1101, 1103, 1324a; 8 CFR part 2; Pub. L. 101-410, 104 Stat. 890, as amended by Pub. L. 104-134, 110 Stat. 1321.

4. Section 274a.8 is amended by revising paragraph (b) to read as follows:

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

\* \* \* \* \*

(b) *Penalty.* Any person or other entity who requires any individual to post a

bond or security as stated in this section shall, after notice and opportunity for an administrative hearing in accordance with section 274A(e)(3)(B) of the Act, be subject to a civil monetary penalty of \$1,000 for each violation before September 29, 1999, and \$1,100 for each violation occurring on or after September 29, 1999, 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.

5. Section 274a.10 is amended by revising paragraph (b)(1)(ii) and paragraph (b)(2) introductory text to read as follows:

**§ 274a.10 Penalties.**

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(ii) To pay a civil fine according to the following schedule:

(A) *First offense*—not less than \$250 and not more than \$2,000 for each unauthorized alien with respect to whom the offense occurred before September 29, 1999, and not less than \$275 and not exceeding \$2,200, for each unauthorized alien with respect to whom the offense occurred occurring on or after September 29, 1999.

(B) *Second offense*—not less than \$2,000 and not more than \$5,000 for each unauthorized alien with respect to whom the second offense occurred before September 29, 1999, and not less than \$2,200 and not exceeding \$5,500, for each unauthorized alien with respect to whom the second offense occurred on or after September 29, 1999; or

(C) *More than two offenses*—not less than \$3,000 and not more than \$10,000 for each unauthorized alien with respect to whom the third or subsequent offense occurred before September 29, 1999, and not less than \$3,300 and not exceeding \$11,000, for each unauthorized alien with respect to whom the third or subsequent offense occurred on or after September 29, 1999; and

\* \* \* \* \*

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

\* \* \* \* \*

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

6. 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, and 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. 104–134, 110 Stat. 1321.

7. Section 280.53 is added to read as follows:

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

(a) *In general.* In accordance with the requirements of the Federal Civil Penalties Inflation Adjustment Act of 1990, Pub. L. 101–410, 104 Stat. 890, as amended by the Debt Collection Improvement Act of 1996, Pub. L. 104–34, 110 Stat. 1321, the civil monetary penalties provided by law within the jurisdiction of the Service and listed in paragraph (c) of this section are adjusted as set forth in this section, effective for violations occurring on or after September 29, 1999.

(b) *Calculation of adjustment.* (1) The inflation adjustments described in paragraph (c) of this section were determined by increasing the maximum civil monetary penalty or the range of minimum and maximum civil monetary penalties, as applicable, for each civil monetary penalty assessed or enforced by the Service by the cost-of-living adjustment as that term is defined by the Federal Civil Penalties Inflation Adjustment Act of 1990, Pub. L. 101–410. Any increase so determined was rounded to the nearest—

(i) Multiples of \$10 in the case of penalties less than or equal to \$100;

(ii) Multiples of \$100 in the case of penalties greater than \$100 but less than or equal to \$1,000;

(iii) Multiples of \$1,000 in the case of penalties greater than \$1,000 but less than or equal to \$10,000;

(iv) Multiples of \$5,000 in the case of penalties greater than \$10,000 but less than or equal to \$100,000;

(v) Multiples of \$10,000 in the case of penalties greater than \$100,000 but less than or equal to \$200,000; and

(vi) Multiples of \$25,000 in the case of penalties greater than \$200,000.

(2) Notwithstanding the provisions of paragraph (b)(1) of this section, the initial adjustment for each penalty is capped at 10%.

(c) *Adjustment to penalties.* The civil monetary penalties provided by law

within the jurisdiction of the Service, as set forth in this paragraph (c)(1) through (9), are adjusted in accordance with the inflation adjustment procedures prescribed in section 5 of the Federal Civil Monetary Penalties Inflation Adjustment Act of 1990, Pub. L. 101–410, effective on or after the September 29, 1999 as follows:

(1) Section 231(d) of the Act, Lists of Aliens and Citizen Passengers Arriving or Departing; Record of Resident Aliens and Citizens Leaving Permanently for Foreign Country: from \$300 to \$330.

(2) Section 234 of the Act, Designation of Ports of Entry for Aliens Arriving by Civil Aircraft: from \$2,000 to \$2,200.

(3) Section 251(d) of the Act, List of Alien Crewmen; Reports of Illegal Landings: from \$200 to \$220 for each alien not reported in accordance with § 251; and from \$5,000 to \$5,500 for use of alien crewman for longshore work in violation of section 251(d).

(4) Section 254(a) of the Act, Control of Alien Crewman: from \$500 minimum/\$3,000 maximum to \$550 minimum/\$3,300 maximum.

(5) Section 255 of the Act, Employment on Passenger Vessels of Aliens Afflicted with Certain Disabilities: from \$1,000 to \$1,100.

(6) Section 256 of the Act, Discharge of Alien Crewman: from \$1,500 minimum/\$3,000 maximum to \$1,500 minimum/\$3,300 maximum.

(7) Section 257 of the Act, Bringing Alien Crewmen Into United States with Intent to Evade Immigration Laws: from a \$10,000 maximum to a \$11,000 maximum.

(8) Section 271(a) of the Act, Prevention of Unauthorized Landing of Aliens: from \$3,000 to \$3,300.

(9) Section 272(a) of the Act, Bringing in Aliens Subject to Exclusion on a Health-Related Ground: from \$3,000 to \$3,300.

(10) Section 273(b) of the Act, Unlawful Bringing of Aliens Into United States: from \$3,000 to \$3,300.

(d) *Identification of sections requiring no adjustment to penalties.* The civil monetary penalties provided by law within the jurisdiction of the Service, as set forth below in paragraphs (d)(1) through (7) of this section require no adjustment:

(1) Section 240B(d) of the Act, Voluntary Departure.

(2) Section 243(c)(1)(A) and (B) of the Act, Penalties Related to Removal.

(3) Section 274C(a)(5) and (a)(6) of the Act, Penalties for Document Fraud.

(4) Section 274D of the Act, Penalties for Failure to Depart.

(5) Section 275(b) of the Act, Entry of Alien at Improper Time or Place.

#### **TITLE 28—JUDICIAL ADMINISTRATION**

#### **PART 20—CRIMINAL JUSTICE INFORMATION SYSTEMS**

8. The authority citation for part 20 is revised to read as follows:

**Authority:** 28 U.S.C. 534; Pub. L. 92–544, 86 Stat. 1115; 42 U.S.C. 3711, *et seq.*; Pub. L. 99–169, 99 Stat. 1002, 1008–1011, as amended by Pub. L. 99–569, 100 Stat. 3190, 3196; Pub. L. 101–410, 104 Stat. 890, as amended by Pub. L. 104–134, 110 Stat. 1321.

9. Section 20.25 is amended by revising the first sentence to read as follows:

#### **§ 20.25 Penalties.**

Any agency or individual violating subpart B of these regulations shall be subject to a civil penalty not to exceed \$10,000 for a violation occurring before September 29, 1999, and not to exceed \$11,000 for a violation occurring on or after September 29, 1999. \* \* \*

#### **PART 22—CONFIDENTIALITY OF IDENTIFIABLE RESEARCH AND STATISTICAL INFORMATION:**

10. The authority citation for part 22 is revised to read as follows:

**Authority:** Secs. 801(a), 812(a), Omnibus Crime Control and Safe Streets Act of 1968, 42 U.S.C. 3701, *et seq.*, as amended (Pub. L. 90–351, as amended by Pub. L. 93–83, Pub. L. 93–415, Pub. L. 94–430, Pub. L. 94–503, Pub. L. 95–115, Pub. L. 96–157, and Pub. L. 98–473); secs. 262(b), 262(d), Juvenile Justice and Delinquency Prevention Act of 1974, 42 U.S.C. 5601, *et seq.*, as amended (Pub. L. 93–415, as amended by Pub. L. 94–503, Pub. L. 95–115, Pub. L. 99–509, and Pub. L. 98–473); and secs. 1407(a) and 1407(d) of the Victims of Crime Act of 1984, 42 U.S.C. 10601, *et seq.*, Pub. L. 98–473; Pub. L. 101–410, 104 Stat. 890, as amended by Pub. L. 104–134, 110 Stat. 1321.

11. Section 22.29 is revised to read as follows:

#### **§ 22.29 Sanctions.**

Where BJA, OJJDP, BJS, NII, or OJP believes that a violation of section 812(a) of the Act or section 1407(d) of the Victims of Crime Act, these regulations, or any grant or contract conditions entered into thereunder has occurred, it may initiate administrative actions leading to termination of a grant or contract, commence appropriate personnel and/or other procedures in cases involving Federal employees, and/or initiate appropriate legal actions leading to imposition of a civil penalty not to exceed \$10,000 for a violation occurring before September 29, 1999, and not to exceed \$11,000 for a violation occurring on or after September 29, 1999 against any person responsible for such violations.

# **PART 36—NONDISCRIMINATION ON THE BASIS OF DISABILITY BY PUBLIC ACCOMMODATIONS AND IN COMMERCIAL FACILITIES**

12. The authority citation for part 36 is revised to read as follows:

**Authority:** 5 U.S.C. 301; 28 U.S.C. 509, 510; 42 U.S.C. 12188(b); Pub. L. 101-410, 104 Stat. 890, as amended by Pub. L. 104-134, 110 Stat. 1321.

13. Section 36.504 is amended by revising paragraph (a)(3) (i) and (ii) to read as follows:

## **§ 36.504 Relief.**

(a) \* \* \*

(3) \* \* \*

(i) Not exceeding \$50,000 for a first violation occurring before September 29, 1999, and not exceeding \$55,000 for a first violation occurring on or after September 29, 1999; and

(ii) Not exceeding \$100,000 for any subsequent violation occurring before September 29, 1999, and not exceeding \$110,000 for any subsequent violation occurring on or after September 29, 1999.

\* \* \* \* \*

# **PART 71—IMPLEMENTATION OF THE PROVISIONS OF THE PROGRAM FRAUD CIVIL REMEDIES ACT OF 1986**

14. The authority citation for part 71 is revised to read as follows:

**Authority:** 5 U.S.C. 301; 28 U.S.C. 509, 510; 31 U.S.C. 3801-3812; Pub. L. 101-410, 104 Stat. 890, as amended by Pub. L. 104-134, 110 Stat. 1321.

15. In § 71.3, the concluding text of paragraphs (a) and (f) are removed, and the introductory text of paragraphs (a) and (f) are revised to read as follows:

## **§ 71.3 Basis for civil penalties and assessments.**

(a) Any person shall be subject, in addition to any other remedy that may be prescribed by law, to a civil penalty of not more than \$5,000 for each claim listed in paragraphs (a)(1) through (a)(4) of this section made before September 29, 1999, and not more than \$5,500 for each such claim made on or after September 29, 1999, if that person makes a claim that the person knows or has reason to know:

\* \* \* \* \*

(f) Any person shall be subject, in addition to any other remedy that may be prescribed by law, to a civil penalty of not more than \$5,000 for each statement listed in paragraphs (f)(1) and (f)(2) of this section made before September 29, 1999, and not more than \$5,500 for each such statement made on

or after September 29, 1999, if that person makes a written statement that:

\* \* \* \* \*

# **PART 76—RULES OF PROCEDURE FOR ASSESSMENT OF CIVIL PENALTIES FOR POSSESSION OF CERTAIN CONTROLLED SUBSTANCES**

16-17. The authority citation for part 76 is revised to read as follows:

**Authority:** 5 U.S.C. 301; 21 U.S.C. 844a, 875, 876; 28 U.S.C. 509, 510.; Pub. L. 101-410, 104 Stat. 890, as amended by Pub. L. 104-134, 110 Stat. 1321.

18. Section 76.3 is amended by revising paragraph (a) to read as follows:

## **§ 76.3 Basis for civil penalty.**

(a) Any individual who knowingly possesses a controlled substance that is listed in § 76.2(h) in violation of 21 U.S.C. 844a shall be liable to the United States for a civil penalty in an amount of not to exceed \$10,000 for each such violation occurring before September 29, 1999, and not to exceed \$11,000 for each such violation occurring on or after September 29, 1999.

\* \* \* \* \*

19. Part 85 is added to read as follows:

# **PART 85—CIVIL MONETARY PENALTIES INFLATION ADJUSTMENT**

Sec.

85.1 In general.

85.2 Calculation of adjustment.

85.3 Adjustments to penalties.

**Authority:** 5 U.S.C. 301, 28 U.S.C. 503; Pub. L. 101-410, 104 Stat. 890, as amended by Pub. L. 104-134, 110 Stat. 1321.

## **§ 85.1 In general.**

(a) In accordance with the requirements of the Federal Civil Penalties Inflation Adjustment Act of 1990, Pub. L. 104-410, 104 Stat. 890, as amended by the Debt Collection Improvement Act of 1996, Pub. L. 104-134, 110 Stat. 1321, the civil monetary penalties provided by law within the jurisdiction of the Department of Justice and listed in section 85.3 are adjusted as set forth in this part, effective for violations occurring on or after September 29, 1999.

(b) Reference should be made to regulations of the Immigration and Naturalization Service in title 8 of the Code of Federal Regulations for the adjustment of civil monetary penalties pertaining to immigration matters. In addition, adjustments to civil penalties relating to unauthorized employment of aliens, immigration related unfair employment practices, and civil document fraud are addressed in 28 CFR 68.52.

## **§ 85.2 Calculation of adjustment.**

(a) The inflation adjustments described in § 85.3 were determined by increasing the maximum civil monetary penalty or the range of minimum and maximum civil monetary penalties, as applicable, for each civil monetary penalty assessed or enforced by the Department of Justice by the cost-of-living adjustment as that term is defined by the Federal Civil Penalties Inflation Adjustment Act of 1990, Pub. L. 101-410. Any increase so determined was rounded to the nearest—

(1) Multiples of \$10 in the case of penalties less than or equal to \$100;

(2) Multiples of \$100 in the case of penalties greater than \$100 but less than or equal to \$1,000;

(3) Multiples of \$1000 in the case of penalties greater than \$1000 but less than or equal to \$10,000;

(4) Multiples of \$5,000 in the case of penalties greater than \$10,000 but less than or equal to \$100,000;

(5) Multiples of \$10,000 in the case of penalties greater than \$100,000 but less than or equal to \$200,000; and

(6) Multiples of \$25,000 in the case of penalties greater than \$200,000.

(b) Notwithstanding the provisions of paragraph (a) of this section, the initial adjustment for each penalty is capped at 10%.

## **§ 85.3 Adjustments to penalties.**

The civil monetary penalties provided by law within the jurisdiction of the respective components of the Department, as set forth in paragraphs (a) through (d) of this section, are adjusted in accordance with the inflation adjustment procedures prescribed in section 5 of the Federal Civil Monetary Penalties Inflation Adjustment Act of 1990, Pub. L. 101-410, effective on or after September 29, 1999, as follows:

(a) *Civil Division.* (1) 5 U.S.C. App. 4 102(f)(6)(C)(i), Ethics in Government Act of 1978, knowing and willful disclosure, solicitation, or receipt of information with respect to blind trusts: from \$10,000 to \$11,000.

(2) 5 U.S.C. App. 4 102(f)(6)(C)(ii), Ethics in Government Act of 1978, negligent disclosure, solicitation, or receipt of information with respect to blind trusts: from \$5,000 to \$5,500.

(3) 5 U.S.C. App. 4 104(a), Ethics in Government Act of 1978, falsification or failure to file required reports: from \$10,000 to \$11,000.

(4) 5 U.S.C. App. 4 105(c)(2), Ethics in Government Act of 1978, unlawful acquisition or use of public reports: from \$10,000 to \$11,000.

(5) 5 U.S.C. App. 4 504(a), Ethics Reform Act of 1989, violations of

limitations on outside earned income and employment: from \$10,000 to \$11,000.

(6) 12 U.S.C. 1833a(b)(1), Financial Institutions Reform, Recovery, and Enforcement Act of 1989, violation: from \$1,000,000 to \$1,100,000.

(7) 12 U.S.C. 1833a(b)(2), Financial Institutions Reform, Recovery, and Enforcement Act of 1989, continuing violations (per day): minimum from \$1,000,000 to \$1,100,000; maximum from \$5,000,000 to \$5,500,000.

(8) 22 U.S.C. 2399b(a)(3)(A), Foreign Assistance Act of 1961, fraudulent claim for assistance: from \$2,000 to \$2,200.

(9) 31 U.S.C. 3729(a), False Claims Act, violations: minimum from \$5,000 to \$5,500; maximum from \$10,000 to \$11,000.

(10) 31 U.S.C. 3802(a)(1), Program Fraud Civil Remedies Act, violation involving false claim: from \$5,000 to \$5,500.

(11) 31 U.S.C. 3802(a)(2), Program Fraud Civil Remedies Act, violation involving false statement: from \$5,000 to \$5,500.

(12) 40 U.S.C. 489(b)(1), Federal Property and Administrative Services Act of 1949, violation involving surplus government property: from \$2,000 to \$2,200.

(13) 41 U.S.C. 55(a)(1)(B), Anti-Kickback Act of 1986, violation involving kickbacks: from \$10,000 to \$11,000.

(b) *Civil Rights Division.* (1) 18 U.S.C. 248(c)(2)(B), Freedom of Access to Clinic Entrances Act of 1994: nonviolent physical obstruction (first order) from \$10,000 to \$11,000; (subsequent order) unchanged at \$15,000.

(2) 18 U.S.C. 248(c)(2)(B), Freedom of Access to Clinic Entrances Act of 1994: other violations (first order) unchanged at \$15,000; (subsequent order) from \$25,000 to \$27,500.

(3) 42 U.S.C. 3614(d)(1)(C), Fair Housing Act of 1968, as amended in 1988: pattern or practice violation (first order) from \$50,000 to \$55,000; (subsequent order) from \$100,000 to \$110,000.

(c) *Criminal Division.* 18 U.S.C. 216(b), Ethics Reform Act of 1989, violation: from \$50,000 to \$55,000.

(d) *Drug Enforcement Administration.* 21 U.S.C. 961(1), Controlled Substances Import Export Act, transshipment and in-transit shipment of controlled substances: from \$25,000 to \$27,500.

Dated: August 12, 1999.

**Janet Reno,**

*Attorney General.*

[FR Doc. 99-22347 Filed 8-27-99; 8:45 am]

BILLING CODE 4410-19-P

## DEPARTMENT OF COMMERCE

### Bureau of Export Administration

#### 15 CFR Parts 734, 736, 742, 743, 748, 750 and 774

[Docket No. 990811216-9216-01]

RIN 0694-AB81

#### Editorial Clarifications and Revisions to the Export Administration Regulations

**AGENCY:** Bureau of Export Administration, Commerce.

**ACTION:** Final rule.

**SUMMARY:** This rule amends the Export Administration Regulations (EAR) by making certain editorial revisions and clarifications to simplify portions of the EAR and correct typographical errors.

**DATES:** This rule is effective August 30, 1999.

**FOR FURTHER INFORMATION CONTACT:** Frank J. Ruggiero, Office of Exporter Services, Bureau of Export Administration, Telephone: (202) 482-2440.

**SUPPLEMENTARY INFORMATION:** This rule makes the following corrections and clarifications:

1. In paragraph 734.5(a) (Activities of U.S. and foreign persons subject to the EAR), the term "nuclear explosive devices" is added.

2. In paragraph 736.2 (b)(3)(ii)(A)(1) (General Prohibition Three), a citation is given to clarify when written assurance from an ultimate consignee is needed to export the direct product of technology or software.

3. Paragraph (c)(6)(ii)(D) of Supplement No. 2 to Part 742 (Anti-Terrorism Controls; Iran, Syria and Sudan Contract Sanctity Dates and Related Topics), is corrected by replacing the phrase "9A994" with "9A991.d" to conform with the Commerce Control List numbering changes made to implement the Wassenaar Arrangement.

4. The heading of paragraph (c)(37) of Supplement No. 2 to Part 742 (Anti-Terrorism Controls; Iran, Syria and Sudan Contract Sanctity Dates and Related Topics), is corrected by replacing the phrase "ECCN 2B992" with "ECCN 2B996" to conform with the Commerce Control List numbering changes made to implement the Wassenaar Arrangement.

5. In paragraph 743.1(c)(1)(v) (Wassenaar Arrangement), a grammatical correction is made.

6. In the first sentence of paragraph (g)(1) of Supplement No. 2 to Part 748 (Unique License Application

Requirements), the citation "\$ 744.4" is deleted.

7. Supplement No. 4 to Part 748 (Authorities Administering Import Certificate/Delivery Verification (IC/DV) and End-Use Certificate Systems in Foreign Countries), the office title, address, phone and fax number of Australia and Belgium are revised.

8. Paragraph 750.7(i) (Records) is redesignated as 750.7(j), and new language is added to paragraph 750.7(i) which clarifies that existing license conditions are terminated when License Exceptions become available or if a product can be exported or reexported without a license.

9. In Category 0 to part 774 (Nuclear Materials, Facilities, and Equipment (And Miscellaneous Items)), the first Reason for Control for ECCN 0A984 is corrected to include shotguns with a barrel length equal to 18 inches.

10. In Supplement No. 2 to part 774 (General Technology and Software Notes), the phrase "License Exception OTS" in the third paragraph of Note No. 1 is corrected to read "License Exception TSU."

Although the Export Administration Act (EAA) expired on August 20, 1994, the President invoked the International Emergency Economic Powers Act and continued in effect the EAR, and to the extent permitted by law, the provisions of the EAA, as amended, in Executive Order 12924 of August 19, 1994, as extended by the President's notices of August 15, 1995 (60 FR 42767), August 14, 1996 (61 FR 42527) August 13, 1997 (62 FR 43629), August 13, 1998 (63 FR 44121), and August 10, 1999 (64 FR 44101).

#### Rulemaking Requirements

1. This final rule has been determined to be not significant for the purposes of Executive Order 12866.

2. Notwithstanding any other provision of law, no person is required to respond to nor be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. This rule involves collections of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). These collection has been approved by the Office of Management and Budget under control numbers 0694-0088, 0694-0023, and 0694-0106. There are neither additions nor subtractions to these collections due to this rule.

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism