

(b) USDA is directed by an administrative or judicial order to refund amounts deducted from the employee's current pay.

§ 3.87 Agency regulations.

USDA agencies may issue regulations or policies not inconsistent with OPM regulations (5 CFR part 550, subpart K) and regulations in this subpart governing the collection of a debt by salary offset.

Subpart H—Cooperation With the Internal Revenue Service

AUTHORITY: 26 U.S.C. 61; 31 U.S.C. 3720A; I TFRM 4055.50.

§ 3.90 Reporting discharged debts to the Internal Revenue Service.

When USDA discharges a debt, whether for the full value or less, it will report the discharge to the Internal Revenue Service (IRS) in accordance with current IRS instructions.

[73 FR 4, Jan. 2, 2008]

Subpart I—Adjusted Civil Monetary Penalties

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

§ 3.91 Adjusted civil monetary penalties.

(a) *In general.* (1) The Secretary will adjust the civil monetary penalties, listed in paragraph (b) of this section, to take account of inflation at least once every 4 years as required by the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101-410), as amended.

(2) Any increase in the dollar amount of a civil monetary penalty listed in paragraph (b) of this section shall apply only to violations occurring after June 23, 2005.

(3) The descriptions of the civil monetary penalties listed in paragraph (b) of this section are for illustrative purposes only. This section does not amend, interpret, implement, or alter in any way the statutory provisions in which the civil monetary penalties listed in paragraph (b) are set. Moreover, the descriptions of the civil monetary penalties listed in paragraph (b)

do not necessarily contain a complete description of the circumstances (*e.g.*, requirements regarding the “state of mind” of the violator(s), requirements regarding the type of law or issuance violated, etc.) under which the penalties are assessed. Persons should consult the statutory text in which the civil monetary penalties are set and any implementing regulations to make applicability determinations.

(4) As used in this section, the following terms have the following meanings:

(i) *Secretary* means the Secretary of Agriculture; and

(ii) *Department* means the United States Department of Agriculture.

(b) *Penalties*—(1) *Agricultural Marketing Service.* (i) Civil penalty for improper pesticide recordkeeping, codified at 7 U.S.C. 136i-1(d), has:

(A) A maximum of \$650 in the case of the first offense; and

(B) A minimum of \$1,100 in the case of subsequent offenses, except that the penalty shall be less than \$1,100 if the Secretary determines that the person made a good faith effort to comply.

(ii) Civil penalty for a violation of the unfair conduct rule under the Perishable Agricultural Commodities Act, in lieu of license revocation or suspension, codified at 7 U.S.C. 499b(5), has a maximum of \$2,200.

(iii) Civil penalty for a violation of the licensing requirements under the Perishable Agricultural Commodities Act, codified at 7 U.S.C. 499c(a), has a maximum of \$1,200 for each such offense and not more than \$350 for each day it continues, or a maximum of \$350 for each such offense if the Secretary determines the violation was not willful.

(iv) Civil penalty in lieu of license suspension under the Perishable Agricultural Commodities Act, codified at 7 U.S.C. 499h(e), has a maximum of \$2,000 for each violative transaction or each day the violation continues.

(v) Civil penalty for a violation of the Export Apple Act, codified at 7 U.S.C. 586, has a minimum of \$110 and a maximum of \$11,000.

(vi) Civil penalty for a violation of the Export Grape and Plum Act, codified at 7 U.S.C. 596, has a minimum of \$110 and a maximum of \$11,000.

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(vii) Civil penalty for a violation of an order issued by the Secretary under the Agricultural Adjustment Act, reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, codified at 7 U.S.C. 608c(14)(B), has a maximum of \$1,100.

(viii) Civil penalty for failure to file certain reports under the Agricultural Adjustment Act, reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, codified at 7 U.S.C. 610(c), has a maximum of \$110.

(ix) Civil penalty for a violation of a seed program under the Federal Seed Act, codified at 7 U.S.C. 1596(b), has a minimum of \$37.50 and a maximum of \$650.

(x) Civil penalty for failure to collect any assessment or fee or for a violation of the Cotton Research and Promotion Act, codified at 7 U.S.C. 2112(b), has a maximum of \$1,100.

(xi) Civil penalty for a violation of a cease and desist order, or for deceptive marketing, under the Plant Variety Protection Act, codified at 7 U.S.C. 2568(b), has a minimum of \$650 and a maximum of \$11,000.

(xii) Civil penalty for failure to pay, collect, or remit any assessment or fee or for a violation of a program under the Potato Research and Promotion Act, codified at 7 U.S.C. 2621(b)(1), has a minimum of \$650 and a maximum of \$6,500.

(xiii) Civil penalty for failure to obey a cease and desist order under the Potato Research and Promotion Act, codified at 7 U.S.C. 2621(b)(3), has a maximum of \$650.

(xiv) Civil penalty for failure to pay, collect, or remit any assessment or fee or for a violation of a program under the Egg Research and Consumer Information Act, codified at 7 U.S.C. 2714(b)(1), has a minimum of \$650 and a maximum of \$6,500.

(xv) Civil penalty for failure to obey a cease and desist order under the Egg Research and Consumer Information Act, codified at 7 U.S.C. 2714(b)(3), has a maximum of \$650.

(xvi) Civil penalty for failure to remit any assessment or fee or for a violation of a program under the Beef Research and Information Act, codified

at 7 U.S.C. 2908(a)(2), has a maximum of \$6,500.

(xvii) Civil penalty for failure to remit any assessment or for a violation of a program regarding wheat and wheat foods research, codified at 7 U.S.C. 3410(b), has a maximum of \$1,100.

(xviii) Civil penalty for failure to pay, collect, or remit any assessment or fee or for a violation of a program under the Floral Research and Consumer Information Act, codified at 7 U.S.C. 4314(b)(1), has a minimum of \$650 and a maximum of \$6,500.

(xix) Civil penalty for failure to obey a cease and desist order under the Floral Research and Consumer Information Act, codified at 7 U.S.C. 4314(b)(3), has a maximum of \$650.

(xx) Civil penalty for a violation of an order under the Dairy Promotion Program, codified at 7 U.S.C. 4510(b), has a maximum of \$1,100.

(xxi) Civil penalty for failure to pay, collect, or remit any assessment or fee or for a violation of the Honey Research, Promotion, and Consumer Information Act, codified at 7 U.S.C. 4610(b)(1), has a minimum of \$650 and a maximum of \$6,500.

(xxii) Civil penalty for failure to obey a cease and desist order under the Honey Research, Promotion, and Consumer Information Act, codified at 7 U.S.C. 4610(b)(3), has a maximum of \$650.

(xxiii) Civil penalty for a violation of a program under the Pork Promotion, Research, and Consumer Information Act of 1985, codified at 7 U.S.C. 4815(b)(1)(A)(i), has a maximum of \$1,100.

(xxiv) Civil penalty for failure to obey a cease and desist order under the Pork Promotion, Research, and Consumer Information Act of 1985, codified at 7 U.S.C. 4815(b)(3)(A), has a maximum of \$650.

(xxv) Civil penalty for failure to pay, collect, or remit any assessment or fee or for a violation of a program under the Watermelon Research and Promotion Act, codified at 7 U.S.C. 4910(b)(1), has a minimum of \$650 and a maximum of \$6,500.

(xxvi) Civil penalty for failure to obey a cease and desist order under the Watermelon Research and Promotion

Act, codified at 7 U.S.C. 4910(b)(3), has a maximum of \$650.

(xxvii) Civil penalty for failure to pay, collect, or remit any assessment or fee or for a violation of a program under the Pecan Promotion and Research Act of 1990, codified at 7 U.S.C. 6009(c)(1), has a minimum of \$1,100 and a maximum of \$11,000.

(xxviii) Civil penalty for failure to obey a cease and desist order under the Pecan Promotion and Research Act of 1990, codified at 7 U.S.C. 6009(e), has a maximum of \$1,100.

(xxix) Civil penalty for failure to pay, collect, or remit any assessment or fee or for a violation of a program under the Mushroom Promotion, Research, and Consumer Information Act of 1990, codified at 7 U.S.C. 6107(c)(1), has a minimum of \$650 and a maximum of \$6,500.

(xxx) Civil penalty for failure to obey a cease and desist order under the Mushroom Promotion, Research, and Consumer Information Act of 1990, codified at 7 U.S.C. 6107(e), has a maximum of \$650.

(xxxi) Civil penalty for failure to pay, collect, or remit any assessment or fee or for a violation of the Lime Research, Promotion, and Consumer Information Act of 1990, codified at 7 U.S.C. 6207(c)(1), has a minimum of \$650 and a maximum of \$6,500.

(xxxii) Civil penalty for failure to obey a cease and desist order under the Lime Research, Promotion, and Consumer Information Act of 1990, codified at 7 U.S.C. 6207(e), has a maximum of \$650.

(xxxiii) Civil penalty for failure to pay, collect, or remit any assessment or fee or for a violation of a program under the Soybean Promotion, Research, and Consumer Information Act, codified at 7 U.S.C. 6307(c)(1)(A), has a maximum of \$1,100.

(xxxiv) Civil penalty for failure to obey a cease and desist order under the Soybean Promotion, Research, and Consumer Information Act, codified at 7 U.S.C. 6307(e), has a maximum of \$6,500.

(xxxv) Civil penalty for failure to pay, collect, or remit any assessment or fee or for a violation of a program under the Fluid Milk Promotion Act of 1990, codified at 7 U.S.C. 6411(c)(1)(A),

has a minimum of \$650 and a maximum of \$6,500, or in the case of a violation that is willful, codified at 7 U.S.C. 6411(c)(1)(B), has a minimum of \$11,000 and a maximum of \$130,000.

(xxxvi) Civil penalty for failure to obey a cease and desist order under the Fluid Milk Promotion Act of 1990, codified at 7 U.S.C. 6411(e), has a maximum of \$6,500.

(xxxvii) Civil penalty for knowingly labeling or selling a product as organic except in accordance with the Organic Foods Production Act of 1990, codified at 7 U.S.C. 6519(a), has a maximum of \$11,000.

(xxxviii) Civil penalty for failure to pay, collect, or remit any assessment or fee or for a violation of a program under the Fresh Cut Flowers and Fresh Cut Greens Promotion and Information Act of 1993, codified at 7 U.S.C. 6808(c)(1)(A)(i), has a minimum of \$650 and a maximum of \$6,500.

(xxxix) Civil penalty for failure to obey a cease and desist order under the Fresh Cut Flowers and Fresh Cut Greens Promotion and Information Act of 1993, codified at 7 U.S.C. 6808(e)(1), has a maximum of \$6,500.

(xl) Civil penalty for a violation of a program under the Sheep Promotion, Research, and Information Act of 1994, codified at 7 U.S.C. 7107(c)(1)(A), has a maximum of \$1,100.

(xli) Civil penalty for failure to obey a cease and desist order under the Sheep Promotion, Research, and Information Act of 1994, codified at 7 U.S.C. 7107(e), has a maximum of \$650.

(xlii) Civil penalty for a violation of an order or regulation issued under the Commodity Promotion, Research, and Information Act of 1996, codified at 7 U.S.C. 7419(c)(1), has a minimum of \$1,200 and a maximum of \$12,000 for each violation.

(xliii) Civil penalty for a violation of a cease and desist order under the Commodity Promotion, Research, and Information Act of 1996, codified at 7 U.S.C. 7419(e), has a minimum of \$1,200 and a maximum of \$12,000 for each day the violation occurs.

(xliv) Civil penalty for a violation of an order or regulation issued under the Canola and Rapeseed Research, Promotion, and Consumer Information Act, codified at 7 U.S.C. 7448(c)(1)(A)(i),

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has a maximum of \$1,200 for each violation.

(xlv) Civil penalty for a violation of a cease and desist order under the Canola and Rapeseed Research, Promotion, and Consumer Information Act, codified at 7 U.S.C. 7448(e), has a maximum of \$6,000 for each day the violation occurs.

(xlvi) Civil penalty for a violation of an order or regulation issued under the National Kiwifruit Research, Promotion, and Consumer Information Act, codified at 7 U.S.C. 7468(c)(1), has a minimum of \$600 and a maximum of \$6,000 for each violation.

(xlvii) Civil penalty for a violation of a cease and desist order under the National Kiwifruit Research, Promotion, and Consumer Information Act, codified at 7 U.S.C. 7468(e), has a maximum of \$600 for each day the violation occurs.

(xlviii) Civil penalty for a violation of an order or regulation issued under the Popcorn Promotion, Research, and Consumer Information Act, codified at 7 U.S.C. 7487(a), has a maximum of \$1,200 for each violation.

(xlix) Civil penalty for certain violations under the Egg Products Inspection Act, codified at 21 U.S.C. 1041(c)(1)(A), has a maximum of \$6,500 for each violation.

(1) Civil penalty for a violation of an order or regulation issued under the Hass Avocado Promotion, Research, and Information Act of 2000, codified at 7 U.S.C. 7807(c)(1)(A)(i), has a minimum of \$1,100 and a maximum of \$11,000 for each violation.

(li) Civil penalty for failure to obey a cease and desist order under the Hass Avocado Promotion, Research, and Information Act of 2000, codified at 7 U.S.C. 7807(e)(1), has a maximum of \$11,000 for each offense.

(lii) Civil penalty for a violation of certain provisions of the Livestock Mandatory Reporting Act of 1999, codified at 7 U.S.C. 1636b(a)(1), has a maximum of \$11,000 for each violation.

(liii) Civil penalty for failure to obey a cease and desist order under the Livestock Mandatory Reporting Act of 1999, codified at 7 U.S.C. 1636b(g)(3), has a maximum of \$11,000 for each violation.

(2) *Animal and Plant Health Inspection Service.* (i) Civil penalty for a violation

of the imported seed provisions of the Federal Seed Act, codified at 7 U.S.C. 1596(b), has a minimum of \$37.50 and a maximum of \$650.

(ii) Civil penalty for a violation of the Animal Welfare Act, codified at 7 U.S.C. 2149(b), has a maximum of \$3,750, and knowing failure to obey a cease and desist order has a civil penalty of \$1,650.

(iii) Civil penalty for any person that causes harm to, or interferes with, an animal used for the purposes of official inspections by the Department, codified at 7 U.S.C. 2279e(a), has a maximum of \$11,000.

(iv) Civil penalty for a violation of the Swine Health Protection Act, codified at 7 U.S.C. 3805(a), has a maximum of \$11,000.

(v) Civil penalty for any person that violates the Plant Protection Act (PPA), or that forges, counterfeits, or, without authority from the Secretary, uses, alters, defaces, or destroys any certificate, permit, or other document provided for in the PPA, codified at 7 U.S.C. 7734(b)(1), has a maximum of the greater of: \$55,000 in the case of any individual (except that the civil penalty may not exceed \$1,100 in the case of an initial violation of the PPA by an individual moving regulated articles not for monetary gain), \$275,000 in the case of any other person for each violation, and \$550,000 for all violations adjudicated in a single proceeding; or twice the gross gain or gross loss for any violation, forgery, counterfeiting, unauthorized use, defacing, or destruction of a certificate, permit, or other document provided for in the PPA that results in the person deriving pecuniary gain or causing pecuniary loss to another.

(vi) Civil penalty for any person [except as provided in 7 U.S.C. 8309(d)] that violates the Animal Health Protection Act (AHPA), or that forges, counterfeits, or, without authority from the Secretary, uses, alters, defaces, or destroys any certificate, permit, or other document provided under the AHPA, codified at 7 U.S.C. 8313(b)(1), has a maximum of the greater of: \$55,000 in the case of any individual, except that the civil penalty may not exceed \$1,100 in the case of an

initial violation of the AHPA by an individual moving regulated articles not for monetary gain, \$275,000 in the case of any other person for each violation, and \$550,000 for all violations adjudicated in a single proceeding; or twice the gross gain or gross loss for any violation or forgery, counterfeiting, or unauthorized use, alteration, defacing or destruction of a certificate, permit, or other document provided under the AHPA that results in the person's deriving pecuniary gain or causing pecuniary loss to another person.

(vii) Civil penalty for any person that violates certain regulations under the Agricultural Bioterrorism Protection Act of 2002 regarding transfers of listed agents and toxins or possession and use of listed agents and toxins, codified at 7 U.S.C. 8401(i)(1), has a maximum of \$275,000 in the case of an individual and \$550,000 in the case of any other person.

(viii) Civil penalty for a violation of the Horse Protection Act, codified at 15 U.S.C. 1825(b)(1), has a maximum of \$2,200.

(ix) Civil penalty for failure to obey Horse Protection Act disqualification, codified at 15 U.S.C. 1825(c), has a maximum of \$4,300.

(x) Civil penalty for knowingly violating, or, if in the business as an importer or exporter, violating, with respect to terrestrial plants, any provision of the Endangered Species Act of 1973, any permit or certificate issued thereunder, or any regulation issued pursuant to section 9(a)(1)(A) through (F), (a)(2)(A) through (D), (c), (d) (other than regulations relating to record-keeping or filing reports), (f), or (g) of the Endangered Species Act of 1973 (16 U.S.C. 1538(a)(1)(A) through (F), (a)(2)(A) through (D), (c), (d), (f), and (g)), as set forth at 16 U.S.C. 1540(a), has a maximum of \$32,500.

(xi) Civil penalty for knowingly violating, or, if in the business as an importer or exporter, violating, with respect to terrestrial plants, any other regulation issued under the Endangered Species Act of 1973, as set forth at 16 U.S.C. 1540(a), has a maximum of \$18,200.

(xii) Civil penalty for any other violation, with respect to terrestrial plants, of the Endangered Species Act of 1973, or any regulation, permit, or

certificate issued thereunder, as set forth at 16 U.S.C. 1540(a), has a maximum of \$650.

(xiii) Civil penalty for knowingly and willfully violating 49 U.S.C. 80502 with respect to the transportation of animals by any rail carrier, express carrier, or common carrier (except by air or water), a receiver, trustee, or lessee of one of those carriers, or an owner or master of a vessel, codified at 49 U.S.C. 80502(d), has a minimum of \$110 and a maximum of \$550.

(3) *Food and Nutrition Service.* (i) Civil penalty for hardship fine in lieu of disqualification, codified at 7 U.S.C. 2021(a), has a maximum of \$11,000 per violation.

(ii) Civil penalty for trafficking in food coupons, codified at 7 U.S.C. 2021(b)(3)(B), has a maximum of \$27,000 for each violation, except that the maximum penalty for violations occurring during a single investigation is \$54,000.

(iii) Civil penalty for the sale of firearms, ammunition, explosives, or controlled substances for coupons, codified at 7 U.S.C. 2021(b)(3)(C), has a maximum of \$27,000 for each violation, except that the maximum penalty for violations occurring during a single investigation is \$54,000.

(iv) Civil penalty for any entity that submits a bid to supply infant formula to carry out the Special Supplemental Nutrition Program for Women, Infants and Children and discloses the amount of the bid, rebate or discount practices in advance of the bid opening or for any entity that makes a statement prior to the opening of the bids for the purpose of influencing a bid, codified at 42 U.S.C. 1786(h)(8)(H)(i), has a maximum of \$132,000,000.

(v) Civil penalty for a vendor convicted of trafficking in food instruments, codified at 42 U.S.C. 1786(o)(1)(A) and 42 U.S.C. 1786(o)(4)(B), has a maximum of \$11,000 for each violation, except that the maximum penalty for violations occurring during a single investigation is \$44,000.

(vi) Civil penalty for a vendor convicted of selling firearms, ammunition, explosives, or controlled substances in exchange for food instruments, codified at 42 U.S.C. 1786(o)(1)(B) and 42 U.S.C. 1786(o)(4)(B), has a maximum of \$11,000

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for each violation, except that the maximum penalty for violations occurring during a single investigation is \$44,000.

(4) *Food Safety and Inspection Service.* (i) Civil penalty for certain violations under the Egg Products Inspection Act, codified at 21 U.S.C. 1041(c)(1)(A), has a maximum of \$6,500 for each violation.

(ii) Civil penalty for failure to timely file certain reports, codified at 21 U.S.C. 467d, has a maximum of \$110 per day for each day the report is not filed.

(iii) Civil penalty for failure to timely file certain reports, codified at 21 U.S.C. 677, has a maximum of \$110 per day for each day the report is not filed.

(iv) Civil penalty for failure to timely file certain reports, codified at 21 U.S.C. 1051, has a maximum of \$110 per day for each day the report is not filed.

(5) *Forest Service.* (i) Civil penalty for a willful disregard of the prohibition against the export of unprocessed timber originating from Federal lands, codified at 16 U.S.C. 620d(c)(1)(A), has a maximum of \$650,000 per violation or three times the gross value of the unprocessed timber, whichever is greater.

(ii) Civil penalty for a violation in disregard of the Forest Resources Conservation and Shortage Relief Act of 1990 or the regulations that implement such Act regardless of whether such violation caused the export of unprocessed timber originating from Federal lands, codified at 16 U.S.C. 620d(c)(2)(A)(i), has a maximum of \$97,500 per violation.

(iii) Civil penalty for a person that should have known that an action was a violation of the Forest Resources Conservation and Shortage Relief Act of 1990 or the regulations that implement such Act regardless of whether such violation caused the export of unprocessed timber originating from Federal lands, codified at 16 U.S.C. 620d(c)(2)(A)(ii), has a maximum of \$65,000 per violation.

(iv) Civil penalty for a willful violation of the Forest Resources Conservation and Shortage Relief Act of 1990 or the regulations that implement such Act regardless of whether such violation caused the export of unprocessed timber originating from Federal lands, codified at 16 U.S.C. 620d(c)(2)(A)(iii), has a maximum of \$650,000.

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(v) Civil penalty for a violation involving protections of caves, codified at 16 U.S.C. 4307(a)(2), has a maximum of \$11,000.

(6) *Grain Inspection, Packers and Stockyards Administration.* (i) Civil penalty for a packer or swine contractor violation, codified at 7 U.S.C. 193(b), has a maximum of \$11,000.

(ii) Civil penalty for a livestock market agency or dealer failure to register, codified at 7 U.S.C. 203, has a maximum of \$650 and not more than \$37.50 for each day the violation continues.

(iii) Civil penalty for operating without filing, or in violation of, a stockyard rate schedule, or of a regulation or order of the Secretary made thereunder, codified at 7 U.S.C. 207(g), has a maximum of \$650 and not more than \$37.50 for each day the violation continues.

(iv) Civil penalty for a stockyard owner, livestock market agency and dealer violation, codified at 7 U.S.C. 213(b), has a maximum of \$11,000.

(v) Civil penalty for a stockyard owner, livestock market agency and dealer compliance order violation, codified at 7 U.S.C. 215(a), has a maximum of \$650.

(vi) Civil penalty for a failure to file required reports, codified at 15 U.S.C. 50, has a maximum of \$110.

(vii) Civil penalty for live poultry dealer violations, codified at 7 U.S.C. 228b-2(b), has a maximum of \$27,000.

(viii) Civil penalty for a violation, codified at 7 U.S.C. 86(c), has a maximum of \$97,500.

(7) *Federal Crop Insurance Corporation.* (i) Civil penalty for any person who willfully and intentionally provides any false or inaccurate information to the Federal Crop Insurance Corporation or to an approved insurance provider with respect to an insurance plan or policy that is offered under the authority of the Federal Crop Insurance Act, codified at 7 U.S.C. 1506(n)(1)(A), has a maximum of \$11,000.

(ii) Civil penalty for any person who willfully and intentionally provides any false or inaccurate information to the Federal Crop Insurance Corporation or to an approved insurance provider with respect to an insurance plan or policy that is offered under the authority of the Federal Crop Insurance

Act, or who fails to comply with a requirement of the Federal Crop Insurance Corporation, codified at 7 U.S.C. 1515(h)(3)(A), has a maximum of the greater of: The amount of pecuniary gain obtained as a result of the false or inaccurate information or the non-compliance; or \$11,000.

(8) *Rural Housing Service*. (i) Civil penalty for a violation of section 536 of Title V of the Housing Act of 1949, codified at 42 U.S.C. 1490p(e)(2), has a maximum of \$110,000 in the case of an individual, and a maximum of \$1,100,000 in the case of an applicant other than an individual.

(ii) Civil penalty for equity skimming under section 543(a) of the Housing Act of 1949, codified at 42 U.S.C. 1490s(a)(2), has a maximum of \$27,500.

(iii) Civil penalty under section 543(b) of the Housing Act of 1949 for a violation of regulations or agreements made in accordance with Title V of the Housing Act of 1949, by submitting false information, submitting false certifications, failing to timely submit information, failing to maintain real property security in good repair and condition, failing to provide acceptable management for a project, or failing to comply with applicable civil rights statutes and regulations, codified at 42 U.S.C. 1490s(b)(3)(A), has a maximum of the greater of: Twice the damages the Department, guaranteed lender, or project that is secured for a loan under Title V, suffered or would have suffered as a result of the violation; or \$55,000 per violation.

[70 FR 29575, May 24, 2005. Redesignated at 73 FR 4, Jan. 2, 2008]

PART 4 [RESERVED]

PART 5—DETERMINATION OF PARITY PRICES

Sec.

- 5.1 Parity index and index of prices received by farmers.
- 5.2 Marketing season average price data.
- 5.3 Selection of calendar year price data.
- 5.4 Commodities for which parity prices shall be calculated.
- 5.5 Publication of season average, calendar year, and parity price data.
- 5.6 Revision of the parity price of a commodity.

AUTHORITY: 7 U.S.C. 1301, 1375.

EDITORIAL NOTE: Nomenclature changes to part 5 appear at 62 FR 8361, Feb. 25, 1997.

§ 5.1 Parity index and index of prices received by farmers.

(a) The parity index and related indices for the purpose of calculating parity prices after May 1, 1976, according to the formula contained in section 301(a) of the Agricultural Adjustment Act of 1938, as amended by the Agricultural Acts of 1948, 1949, 1954, and 1956 (hereinafter referred to as section 301(a)) shall be the index of prices paid by farmers, interest, taxes, and farm wage rates, as revised May 1976 and published in the May 28, 1976, and subsequent issues of the monthly report, "Agricultural Prices." The publication of these indices by the National Agricultural Statistics Service in the monthly report, "Agricultural Prices", shall be continued.

(b) The measure of the general level of prices received by farmers as provided for in section 301(a)(1)(B)(ii) after January 1, 1959, shall be the index of prices received by farmers as revised January 1959 and published in the January 30, 1959, and subsequent issues of "Agricultural Prices". The simple average of the 120 monthly indices included in the preceding 10 calendar years plus an adjustment to take account of the effect on the index of any adjustment made on average prices of individual commodities as hereinafter specified shall be used in the calculation of the adjusted base prices. Parity prices heretofore published for periods prior to January 1, 1959 shall not be revised.

(c) The term *milkfat* as used in these regulations is synonymous with the term *butterfat*, and when any statute requires calculation of the parity price of butterfat, the parity price of milkfat shall be the parity price of butterfat.

[24 FR 697, Jan. 31, 1959, as amended by Amdt. 6, 24 FR 9778, Dec. 5, 1959; Amdt. 29, 41 FR 22333, June 3, 1976]

§ 5.2 Marketing season average price data.

It is hereby found that it is impractical to use averages of prices received by farmers on a calendar year basis for the following agricultural commodities