

Commission's Rules of Practice. A footnote in the document contained an incorrect citation to the Commodity Futures Trading Commission. This notice corrects this error.

**DATES:** Effective November 9, 2012.

**FOR FURTHER INFORMATION CONTACT:**

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

**SUPPLEMENTARY INFORMATION:**

*Correction*

In the **Federal Register** of September 27, 2012, in FR Doc. 2012-23691, on page 59303, the second column, remove "8 CFR 1003.104" from the fourth line of footnote 74 (continued) and add "17 CFR 14.8" in its place.

**Donald S. Clark,**  
*Secretary.*

[FR Doc. 2012-26170 Filed 10-24-12; 8:45 am]

**BILLING CODE 6750-01-P**

**COMMODITY FUTURES TRADING  
COMMISSION**

**17 CFR Part 143**

**RIN 3038-AD76**

**Adjustment of Civil Monetary Penalties  
for Inflation**

**AGENCY:** Commodity Futures Trading Commission

**ACTION:** Final rule.

**SUMMARY:** The Commodity Futures Trading Commission (Commission) is amending its rule that governs the maximum amount of civil monetary penalties, to adjust for inflation. This rule sets forth the maximum, inflation-adjusted dollar amount for civil monetary penalties (CMPs) assessable for violations of the Commodity Exchange Act (CEA) and Commission rules, regulations and orders thereunder. The rule, as amended, implements the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996.

**DATES:** *Effective Date:* This final rule will become effective October 25, 2012.

**FOR FURTHER INFORMATION CONTACT:**

Edward J. Riccobene, Associate Chief Counsel, Division of Enforcement, at (202) 418-5327 or [ericcobene@cftc.gov](mailto:ericcobene@cftc.gov), Commodity Futures Trading Commission, 1155 21st Street NW., Washington, DC 20581.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

The Federal Civil Penalties Inflation Adjustment Act of 1990 (FCPIAA), as amended by the Debt Collection Improvement Act of 1996 (DCIA),<sup>1</sup> requires the head of each Federal agency to adjust by regulation, at least once every four years, the maximum amount of CMPs provided by law within the jurisdiction of that agency by the cost of living adjustment defined in the FCPIAA, as amended.<sup>2</sup> Because one of the purposes of the inflation adjustments includes maintaining the deterrent effect of CMPs and promoting compliance with the law, the Commission monitors the impact of inflation on its CMP maximums and adjusts them as needed to implement the requirements and purposes of the FCPIAA.<sup>3</sup>

On July 21, 2010, President Obama signed the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) into law.<sup>4</sup> Section 753 of the Dodd-Frank Act set maximum CMPs for Sections 6(c) and 6(d) of the CEA, 7 U.S.C. 9, 13b. Section 753 of the Dodd-Frank Act is effective August 15, 2011, the effective date for the Commission's rules implementing this section.<sup>5</sup>

**II. Commodity Exchange Act Civil Monetary Penalties**

The inflation adjustment requirement applies to any penalty, fine or other sanction that is for a specific monetary amount as provided by Federal law; or has a maximum amount provided for by Federal law; and is assessed or enforced by an agency pursuant to Federal law;

<sup>1</sup> The FCPIAA, Public Law 101-410 (1990), and the relevant amendments to the FCPIAA contained in the DCIA, Public Law 104-134 (1996), is codified at 28 U.S.C. 2461 note.

<sup>2</sup> The DCIA also requires that the range of minimum and maximum CMPs be adjusted, if applicable. For the relevant CMPs within the Commission's jurisdiction, the Act provides only for maximum amounts that can be assessed for each violation of the Act or the rules, regulations and orders promulgated thereunder; the Act does not set forth any minimum penalties. Therefore, the remainder of this release will refer only to CMP maximums.

<sup>3</sup> Specifically, the FCPIAA states that the purpose of the FCPIAA is to establish a mechanism that shall allow for regular adjustment for inflation of civil monetary penalties; maintain the deterrent effect of civil monetary penalties and promote compliance with the law; and improve the collection by the Federal Government of civil monetary penalties.

<sup>4</sup> See Dodd-Frank Act, Public Law 111-203, 124 Stat. 1376 (2010). The text of the Dodd-Frank Act may be accessed at <http://www.cftc.gov/LawRegulation/OTCDERIVATIVES/index.htm>.

<sup>5</sup> Prohibition of Employment, or Attempted Employment, of Manipulative and Deceptive Devices and Prohibition on Price Manipulation, 76 FR 41398 (July 14, 2011) (implementing Section 753 of the CEA; effective August 15, 2011).

and is assessed or enforced pursuant to an administrative proceeding or a civil action in the Federal courts. [28 U.S.C. 2461 note.] The CEA provides for CMPs that meet the above definition and are, therefore, subject to the inflation adjustment in the following instances: Sections 6(c), 6(d), 6b, and 6c of the CEA.<sup>6</sup>

Section 6(c) of the CEA, as amended by Section 753(a) of the Dodd-Frank Act, sets the maximum CMP that may be imposed by the Commission in an administrative proceeding on "any person (other than a registered entity)" for: (1) Each violation of Section 6(c) of the CEA "or any other provisions of [the] Act or of the rules, regulations, or orders of the Commission thereunder" to the greater of \$140,000 or triple the monetary gain to the violator; and (2) any "manipulation or attempted manipulation in violation of" Section 6(c) or 9(a)(2) of the CEA to the greater of \$1,000,000 or triple the monetary gain to the violator.<sup>7</sup>

Section 6(d) of the CEA, as amended by Section 753(b) of the Dodd-Frank Act, sets the maximum CMP that may be imposed by the Commission in an administrative proceeding on "any person (other than a registered entity<sup>8</sup>)" for violations of the CEA "or any other provisions of [the CEA] or of the rules, regulations, or orders of the Commission thereunder" to "the greater of \$140,000 or triple the monetary gain" to the violator.<sup>9</sup>

Section 6b of the CEA provides that the Commission in an administrative proceeding may impose a CMP on: (1) any registered entity for not enforcing or has not enforced its rules of government made a condition of its designation or registration" as set forth in the CEA, or (2) "any registered entity, or any director, officer, agent, or employee of any registered entity," for violations of the CEA "or any rules, regulations, or orders of the Commission thereunder."<sup>10</sup> For each violation for which a CMP is assessed pursuant to

<sup>6</sup> 7 U.S.C. 9, 13a, 13a-1, 13b.

<sup>7</sup> 7 U.S.C. 9.

<sup>8</sup> The term "registered entity" is a defined term under the CEA. Section 1a(40) provides that the term "registered entity" means a board of trade designated as a contract market under section 7 of the CEA; a derivatives clearing organization registered under section 7a-1 of the CEA; a board of trade designated as a contract market under section 7b-1 of the CEA; a swap execution facility registered under section 7b-3 of the CEA; a swap data repository registered under section 24a of the CEA; and with respect to a contract that the Commission determines is a significant price discovery contract, any electronic trading facility on which the contract is executed or traded. 7 U.S.C. 1a(40).

<sup>9</sup> 7 U.S.C. 13b.

<sup>10</sup> 7 U.S.C. 13a.

Section 6b, Rule 143.8(a)(3) sets the current maximum penalty at: the greater of \$1,000,000 or triple the monetary gain to such person for manipulation or attempted manipulation in violation of Section 6(c), 6(d), or 9(a)(2) of the CEA; and the greater of \$675,000 or triple the monetary gain to such person for all other violations.<sup>11</sup>

Section 6c of the CEA provides that Commission may bring an action in the “proper district court of the United States or the proper United States court of any territory or other place subject to the jurisdiction of the United States” and the court may impose on a CMP on “any registered entity or other person” found by the court to have committed any violation of any provision of the CEA “or any rule, regulation, or order thereunder, or is restraining trading in any commodity for future delivery or any swap.”<sup>12</sup> For each violation for which a CMP is assessed pursuant to Section 6c(d), Rule 143.8(a)(2) sets the current maximum penalty at: the greater of \$1,000,000 or triple the monetary gain to such person for manipulation or attempted manipulation in violation of Section 6(c), 6(d), or 9(a)(2) of the CEA; and the greater of \$140,000 or triple the monetary gain to such person for all other violations.<sup>13</sup>

### III. Cost-of-Living Adjustment for Commodity Exchange Act Civil Monetary Penalties

#### A. Methodology

The formula for determining the cost-of-living adjustment, first defined by the FCPIAA, and amended by the DCIA, consists of a four-step process.

The first step entails determining the inflation adjustment factor. This is done by calculating the percentage increase by which the Consumer Price Index for all-urban consumers published by the Department of Labor (CPI)<sup>14</sup> for the month of June of the calendar year preceding the adjustment exceeds the CPI for the month of June of the calendar year in which the amount of such CMP was last set or adjusted pursuant to law. The CMPs for Sections 6(c) and 6(d) of the CEA were last set by the Dodd-Frank Act, effective in the

calendar year 2011. The CMPs for Sections 6b and 6c of the CEA were last set by Commission Rule, effective in the calendar year 2008.<sup>15</sup> Accordingly, the inflation adjustment factor for Sections 6(c) and 6(d) of the CEA equals the CPI for June 2011 (*i.e.*, June of the year preceding this year) divided by that index for June 2011, and the inflation adjustment factor for Sections 6b and 6c of the CEA equals the CPI for June 2011 divided by that index for June 2008.<sup>16</sup>

Second, the inflation adjustment factors are then multiplied by the current maximum CMPs to calculate the raw inflation increase. Third, this raw inflation increase is then rounded according to the guidelines set forth by the FCPIAA to calculate the final inflation increase.<sup>17</sup> Fourth, the final inflation increase is added to the current CMP maximum to obtain the new CMP maximum penalty.

#### B. Civil Monetary Penalty Adjustments

In Commission actions pursuant to Sections 6(c) or (d) of the CEA, the amount set for the maximum CMP for manipulation or attempted manipulation violations is \$1,000,000, and the amount set for the maximum CMP for all other violations is \$140,000. Applying the CPI adjustment methodology, no adjustment to these CMP amounts is required.<sup>18</sup>

In Commission actions pursuant to Section 6b of the CEA, the amount set for the CMP for manipulation and attempted manipulation violations is \$1,000,000 (or triple the monetary gain) and the amount set for the CMP for all other violations is \$675,000 (or triple the monetary gain). Applying the CPI adjustment methodology, these CMP amounts must be increased by \$25,000 each, and the new CMP maximums are \$1,025,000 (or triple the monetary gain) for manipulation and attempted manipulation violations, and \$700,000

(or triple the monetary gain) for all other violations.<sup>19</sup>

In Commission actions pursuant to Section 6c of the CEA, the amount set for the CMP for manipulation and attempted manipulation violations is \$1,000,000 (or triple the monetary gain) and the amount set for the CMP for all other violations is \$140,000 (or triple the monetary gain). Applying the CPI adjustment methodology, the CMP amount for manipulation and attempted manipulation violations must be increased by \$25,000 to \$1,025,000 (or triple the monetary gain), while the CMP amount for all other violations remains unchanged at \$140,000 (or triple the monetary gain).<sup>20</sup>

The FCPIAA provides that “any increase under [FCPIAA] in a CMP shall apply only to violations which occur after the date the increase takes effect.”<sup>21</sup> Thus, the new CMP amounts may be applied only to violations of the CEA that occur after the effective date of this amendment, October 23, 2012.

### IV. Administrative Compliance

#### A. Notice Requirement

The notice and comment procedures of 5 U.S.C. 553 do not apply to this rulemaking because the Commission is acting herein pursuant to statutory language which mandates that the Commission act in a nondiscretionary matter. *Lake Carriers' Ass'n v. E.P.A.*, 652 F.3d 1, 10 (DC Cir. 2011).<sup>22</sup>

<sup>19</sup> Multiplying the CMP amounts by the inflation adjustment factor results in a raw adjustment amount of \$31,562 for manipulation and attempted manipulation violations ( $0.03156 \times \$1,000,000$ ), and a raw adjustment amount of \$21,304 for all other violations ( $0.03156 \times \$675,000$ ). Because the CMP amounts are greater than \$200,000, the raw adjustment amounts must be rounded to the nearest \$25,000, which results in a final adjustment amount of \$25,000 for all violations, including manipulation and attempted manipulation violations.

<sup>20</sup> Multiplying the CMP amounts by the inflation adjustment factor results in a raw adjustment amount of \$31,562 for manipulation and attempted manipulation violations ( $0.03156 \times \$1,000,000$ ), and a raw adjustment amount of \$3,156 for all other violations ( $0.03156 \times \$140,000$ ). Because the CMP amount for manipulation and attempted manipulation violations is greater than \$200,000, the raw adjustment amount must be rounded to the nearest \$25,000, which results in a final adjustment amount of \$25,000 for these violations. Because the CMP amount for all other violations is less than \$200,000, the raw adjustment amount must be rounded to the nearest \$10,000, which results in a final adjustment amount of \$0 for these violations.

<sup>21</sup> See also *Landgraf v. USI Film Products*, 511 U.S. 244 (1994) (holding that there is a presumption against retroactivity in changes to damage remedies or civil penalties in the absence of clear statutory language to the contrary).

<sup>22</sup> The Commission has determined that the amendment to Rule 143.8 is exempt from the provisions of the Administrative Procedure Act, 5 U.S.C. 553, which generally require notice of

Continued

<sup>11</sup> 17 CFR 143.8(a)(3).

<sup>12</sup> 7 U.S.C. 13a-1.

<sup>13</sup> 17 CFR 143.8(a)(2).

<sup>14</sup> The Consumer Price Index means the Consumer Price Index for all urban consumers published by the Department of Labor. Interested parties may find the relevant Consumer Price Index on the Internet. To access this information, go to the Consumer Price Index Home Page at: <http://www.bls.gov/cpi/>. Under the “CPI Databases” heading, select “CPI—All Urban Consumers (Current Series)”, “Top Picks.” Then check the box for “U.S. All Items, 1967 = 100—CUUR0000AA0”, and click the “Retrieve data” button.

<sup>15</sup> See Adjustment of Civil Monetary Penalties for Inflation, 73 FR 57512 (Oct. 3, 2008) (effective Oct. 23, 2008).

<sup>16</sup> The CPI for June 2011 was 676.162, and the CPI for June 2008 was 655.474. Therefore, the relevant inflation adjustment factor for Sections 6(c) and 6(d) of the Act equals 676.162 divided by 655.474, which is 0.0316 for computational purposes, and for Sections 6b and 6c equals 676.162 divided by 655.474, which is 0.0316 for computational purposes.

<sup>17</sup> The FCPIAA, as amended by the DCIA, provides in relevant part that any increase shall be rounded to the nearest multiple of \$10,000 in the case of penalties greater than \$100,000 but less than or equal to \$200,000; and multiple of \$25,000 in the case of penalties greater than \$200,000.

<sup>18</sup> Because the inflation adjustment factor for these CMPs is 0.0, the CMP amounts are not required to be revised pursuant to FCPIAA.

### B. Regulatory Flexibility Act

The Regulatory Flexibility Act<sup>23</sup> requires agencies with rulemaking authority to consider the impact of certain of their rules on small businesses. A regulatory flexibility analysis is only required for “rule[s] for which the agency publishes a general notice of proposed rulemaking pursuant to section 553(b) \* \* \* or any other law.” As the Commission is not obligated by section 553(b) or any other law to publish a general notice of proposed rulemaking with respect to the revisions being made to regulation 143.8, the Commission additionally is not obligated to conduct a regulatory flexibility analysis.

### C. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3507(d), which imposes certain requirements on Federal agencies, including the Commission, in connection with their conducting or sponsoring any collection of information as defined by the PRA, does not apply to this rule. This rule amendment does not contain information collection requirements that require the approval of the Office of Management and Budget.

### D. Consideration of Costs and Benefits

Section 15(a) of the CEA, 7 U.S.C. 19(a), requires the Commission to consider the costs and benefits of its action before issuing a new regulation. Section 15(a) further specifies that costs and benefits shall be evaluated in light of five broad areas of market and public concern: (1) Protection of market participants and the public; (2) efficiency, competitiveness, and financial integrity of futures markets; (3) price discovery; (4) sound risk management practices; and (5) other public interest considerations.

The Commission believes that benefits of this rulemaking greatly outweigh the costs, if any. As the Commission understands, the statutory provisions by which it is making cost-of-living adjustments to the civil money penalties in regulation 143.8 were enacted to ensure that civil money penalties do not lose their deterrence value because of inflation. An analysis of the costs and benefits of these adjustments were made before enactment of the statutory provisions under which the Commission is

proposed rulemaking and provide other opportunities for public participation, but excludes rules of agency practice, such as those found in part 143 of the Commission’s regulations, and in particular rule 143.8 being revised herein.

<sup>23</sup> 5 U.S.C. 601–612.

operating, and limit the discretion of the Commission to the extent that there are no regulatory choices the Commission could make that would supersede the pre-enactment analysis with respect to the five factors enumerated in section 15(a), or any other factors.

### List of Subjects in 17 CFR Part 143

Civil monetary penalties, Claims.

In consideration of the foregoing and pursuant to authority contained in Sections 6(c), 6(d), 6b and 6c of the CEA, 7 U.S.C. 9, 13a, 13a–1(d), 13b, and 28 U.S.C. 2461 note, the Commission hereby amends part 143 of chapter I of title 17 of the Code of Federal Regulations as follows:

### PART 143—COLLECTION OF CLAIMS OWED THE UNITED STATES ARISING FROM ACTIVITIES UNDER THE COMMISSION’S JURISDICTION

■ 1. The authority citation for part 143 continues to read as follows:

**Authority:** 7 U.S.C. 9, 15, 9a, 12a(5), 13a, 13a–1(d), 13(a), 13b; 31 U.S.C. 3701–3719; 28 U.S.C. 2461 note.

■ 2. Section 143.8 is amended by revising paragraph (a) to read as follows:

#### § 143.8 Inflation-adjusted civil monetary penalties.

(a) Unless otherwise amended by an act of Congress, the inflation-adjusted maximum civil monetary penalty for each violation of the Commodity Exchange Act or the rules, regulations or orders promulgated thereunder that may be assessed or enforced under the Commodity Exchange Act in an administrative proceeding before the Commission or a civil action in Federal court will be:

(1) For a civil penalty assessed pursuant to Section 6(c) of the Commodity Exchange Act, 7 U.S.C. 9, against any person (other than a registered entity):

(i) For manipulation or attempted manipulation violations:

(A) Committed on or after May 22, 2008, not more than the greater of \$1,000,000 or triple the monetary gain to such person for each such violation; and

(ii) For all other violations:

(A) Committed between November 27, 1996 and October 22, 2000, not more than the greater of \$110,000 or triple the monetary gain to such person for each such violation;

(B) Committed between October 23, 2000 and October 22, 2004, not more than the greater of \$120,000 or triple the monetary gain to such person for each such violation;

(C) Committed between October 23, 2004 and October 22, 2008, not more than the greater of \$130,000 or triple the monetary gain to such person for each such violation; and

(D) Committed on or after October 23, 2008, not more than the greater of \$140,000 or triple the monetary gain to such person for each such violation; and

(2) For a civil monetary penalty assessed pursuant to Section 6(d) of the Commodity Exchange Act, 7 U.S.C. 13b, against any person (other than a registered entity):

(i) For violations committed on or after August 15, 2011, not more than the greater of \$140,000 or triple the monetary gain to such person for each such violation; and

(ii) [Reserved]

(3) For a civil monetary penalty assessed pursuant to Section 6b of the Commodity Exchange Act, 7 U.S.C. 13a, against any registered entity or any director, officer, agent, or employee of any registered entity:

(i) For manipulation or attempted manipulation violations:

(A) Committed between May 22, 2008 and August 14, 2011, not more than the greater of \$1,000,000 or triple the monetary gain to such person for each such violation;

(B) committed on or after August 15, 2011, not more than the greater of \$1,025,000 or triple the monetary gain to such person for each such violation; and

(ii) For all other violations:

(A) Committed between November 27, 1996 and October 22, 2000, not more than \$550,000 for each such violation;

(B) Committed between October 23, 2000 and October 22, 2004, not more than \$575,000 for each such violation;

(C) Committed between October 23, 2004 and October 22, 2008, not more than \$625,000 for each such violation;

(D) Committed between October 23, 2008 and October 22, 2012, not more than the greater of \$675,000 or triple the monetary gain to such person for each such violation; and

(E) Committed on or after October 23, 2012, not more than the greater of \$700,000 or triple the monetary gain to such person for each such violation; and

(4) For a civil monetary penalty assessed pursuant to Section 6c of the Commodity Exchange Act, 7 U.S.C. 13a–1, against any registered entity or other person:

(i) For manipulation or attempted manipulation violations:

(A) Committed between May 22, 2008 and August 14, 2011, not more than the greater of \$1,000,000 or triple the monetary gain to such person for each such violation; and

(B) Committed on or after August 15, 2011, not more than the greater of \$1,025,000 or triple the monetary gain to such person for each such violation; and

(ii) For all other violations:

(A) Committed between November 27, 1996 and October 22, 2000, not more than the greater of \$110,000 or triple the monetary gain to such person for each such violation;

(B) Committed between October 23, 2000 and October 22, 2004, not more than the greater of \$120,000 or triple the monetary gain to such person for each such violation;

(C) Committed between October 23, 2004 and October 22, 2008, not more than the greater of \$130,000 or triple the monetary gain to such person for each such violation; and

(D) Committed on or after October 23, 2008, not more than the greater of \$140,000 or triple the monetary gain to such person for each such violation.

\* \* \* \* \*

Issued in Washington, DC, on October 18, 2012, by the Commission.

**Sauntia S. Warfield,**

*Assistant Secretary of the Commission.*

**Note:** The following appendix will not appear in the Code of Federal Regulations.

**Appendix to Adjustment of Civil Monetary Penalties for Inflation—Commission Voting Summary and Statements of Commissioners**

**Appendix 1—Commission Voting Summary**

On this matter, Chairman Gensler and Commissioners Sommers, Chilton, O'Malia and Wetjen voted in the affirmative; no Commissioner voted in the negative.

[FR Doc. 2012-26090 Filed 10-24-12; 8:45 am]

**BILLING CODE 6351-01-P**

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**DEPARTMENT OF AGRICULTURE**

**Forest Service**

**36 CFR Part 230**

**RIN 0596-AC84**

**Community Forest and Open Space Conservation Program; Approval of Information Collection Request**

**AGENCY:** Forest Service, USDA.

**ACTION:** Final rule; notice of approval of Information Collection Request (ICR).

**SUMMARY:** The final rule entitled Community Forest and Open Space Conservation Program was published on October 20, 2011. The Office of Management and Budget approved and cleared the associated information collection requirements (ICR) on August

22, 2012. This document announces approval of the ICR.

**DATES:** The ICR associated with the final rule published in the **Federal Register** on October 20, 2011, at 76 FR 65121. The Office of Management and Budget (OMB) approved and cleared the associated Information Collection Requirements on August 22, 2012, under OMB Control Number 0596-0227.

**FOR FURTHER INFORMATION CONTACT:** Scott Stewart, U.S. Department of Agriculture, Forest Service, State and Private Forestry, Cooperative Forestry, 202-205-1618. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

Dated: October 16, 2012.

**Harris D. Sherman,**

*Under Secretary, Natural Resources and Environment.*

[FR Doc. 2012-26247 Filed 10-24-12; 8:45 am]

**BILLING CODE 3410-11-P**

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**POSTAL SERVICE**

**39 CFR Part 966**

**Rules of Practice in Proceedings Relative to Administrative Offsets Initiated Against Former Employees of the Postal Service**

**AGENCY:** Postal Service.

**ACTION:** Final rule.

**SUMMARY:** This document revises the rules of practice of the Judicial Officer in proceedings relative to administrative offsets initiated against former employees of the Postal Service. These revisions update the rules to reflect changes in the Postal Service's debt collection regulations and procedures, eliminate outdated provisions, and conform the rules to the Judicial Officer's existing practice.

**DATES:** *Effective date:* November 26, 2012.

**FOR FURTHER INFORMATION CONTACT:** Administrative Judge Gary E. Shapiro, 2101 Wilson Boulevard, Suite 600, Arlington, VA 22201-3078; *Telephone:* (703) 812-1900.

**SUPPLEMENTARY INFORMATION:**

**A. Executive Summary**

The rules of practice in proceedings relative to administrative offsets initiated against former employees of the Postal Service are set forth in 39 CFR part 966. The Postal Service is concurrently revising its regulations

pertaining to collecting debts from former employees contained in the Postal Service Employment and Labor Relations Manual (ELM). These ELM revisions conform existing Postal Service regulations to the requirements of the Debt Collection Act. The revisions in this document will bring 39 CFR part 966 into accord with the Postal Service's revised regulations for collecting debts from former employees by administrative offset. In addition, minor changes will be made to eliminate outdated provisions and conform these rules to the existing practice of the Judicial Officer.

The Postal Service published these proposed changes to 39 CFR part 966 on September 4, 2012 (77 FR 53830-34). No comments were received. The final version of the rule is, accordingly unmodified, with the exception of minor changes to § 966.9, intended to be clarifying only.

**B. Summary of Changes**

Changes to § 966.2(a) cross reference the Postal Service's new ELM provisions pertaining to administrative offsets and also clarify that such offsets are taken pursuant to the statutory authority of 31 U.S.C. 3716. Changes to § 966.2(b) clarify that the regulations contained in 39 CFR part 966 are intended to be consistent with the Federal Claims Collection Standards promulgated jointly by the Department of Justice and the Treasury, found at 31 CFR parts 900-904.

Changes to § 966.3 update the definitions of part 966 to refer to the Postal Service Accounting Service Center (ASC) or successor installation instead of the area Postmaster/Installation head. The definition of "reconsideration" in paragraph (i) is thus revised to refer to action taken by the ASC. These changes accurately reflect the Postal Service's current practices for collecting debts from former employees, as collections from former employees are normally handled through the ASC. Definitions are also updated to include the Federal Claims Collection Standards, referenced elsewhere in the revised regulations. Changes to paragraph (j) are non-substantive and provide the parties with useful contact information.

Changes to § 966.4 revise the procedures for filing a petition for a hearing under part 966. These revisions align these regulations with the Postal Service's revised ELM regulations pertaining to collecting debts from former employees by administrative offset, the Postal Service's current debt collection procedures, and current practice before the Judicial Officer.