

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

List of Subjects for 16 CFR Part 1

Administrative practice and procedure, Penalties, Trade practices.

Text of Amendments

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

PART 1—GENERAL PROCEDURES

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

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

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

- 2. Revise § 1.98 to read as follows:

§ 1.98 Adjustment of civil monetary penalty amounts.

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

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

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

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

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

By direction of the Commission.

April J. Tabor,

Acting Secretary.

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

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 250 and 385

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

Civil Monetary Penalty Inflation Adjustments

AGENCY: Federal Energy Regulatory Commission, Department of Energy.

ACTION: Final rule.

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

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

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

SUPPLEMENTARY INFORMATION:

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

I. Background

2. The Federal Civil Penalties Inflation Adjustment Act Improvements

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

II. Discussion

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

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

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

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

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

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

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

⁴ *Id.* (3).

⁵ 16 U.S.C. 791a *et seq.*

⁶ 15 U.S.C. 717 *et seq.*

⁷ 15 U.S.C. 3301 *et seq.*

⁸ 49 App. U.S.C. 1 *et seq.* (1988).

⁹ 28 U.S.C. 2461 note, at (5)(b)(1).

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

¹¹ *Id.* (5)(a).

This step results in a base penalty increase amount.

6. The third step requires rounding the base penalty increase amount to the nearest dollar and adding that amount to the base penalty to calculate the new

adjusted maximum civil monetary penalty.¹²

7. Under the 2015 Adjustment Act, an agency is directed to use the maximum civil monetary penalty applicable at the time of assessment of a civil penalty,

regardless of the date on which the violation occurred.¹³

8. The adjustments that the Commission is required to make pursuant to the 2015 Adjustment Act are reflected in the following table:

Source	Existing maximum civil monetary penalty	New adjusted maximum civil monetary penalty
16 U.S.C. 825o–1(b), Sec. 316A of the Federal Power Act	\$1,269,500 per violation, per day ..	\$1,291,894 per violation, per day.
16 U.S.C. 823b(c), Sec. 31(c) of the Federal Power Act	\$22,927 per violation, per day	\$23,331 per violation, per day.
16 U.S.C. 825n(a), Sec. 315(a) of the Federal Power Act	\$2,994 per violation	\$3,047 per violation.
15 U.S.C. 717t–1, Sec. 22 of the Natural Gas Act	\$1,269,500 per violation, per day ..	\$1,291,894 per violation, per day.
15 U.S.C. 3414(b)(6)(A)(i), Sec. 504(b)(6)(A)(i) of the Natural Gas Policy Act of 1978.	\$1,269,500 per violation, per day ..	\$1,291,894 per violation, per day.
49 App. U.S.C. 6(10) (1988), Sec. 6(10) of the Interstate Commerce Act.	\$1,329 per offense and \$67 per day after the first day.	\$1,352 per offense and \$68 per day after the first day.
49 App. U.S.C. 16(8) (1988), Sec. 16(8) of the Interstate Commerce Act.	\$13,291 per violation, per day	\$13,525 per violation, per day.
49 App. U.S.C. 19a(k) (1988), Sec. 19a(k) of the Interstate Commerce Act.	\$1,329 per offense, per day	\$1,352 per offense, per day.
49 App. U.S.C. 20(7)(a) (1988), Sec. 20(7)(a) of the Interstate Commerce Act.	\$1,329 per offense, per day	\$1,352 per offense, per day.

III. Administrative Findings

9. Congress directed that agencies issue final rules to adjust their maximum civil monetary penalties notwithstanding the requirements of the Administrative Procedure Act (APA).¹⁴ Because the Commission is required by law to undertake these inflation adjustments notwithstanding the notice and comment requirements that otherwise would apply pursuant to the APA, and because the Commission lacks discretion with respect to the method and amount of the adjustments, prior notice and comment would be impractical, unnecessary, and contrary to the public interest.

IV. Regulatory Flexibility Statement

10. The Regulatory Flexibility Act, as amended, requires agencies to certify that rules promulgated under their authority will not have a significant economic impact on a substantial number of small businesses.¹⁵ The requirements of the Regulatory Flexibility Act apply only to rules promulgated following notice and comment.¹⁶ The requirements of the Regulatory Flexibility Act do not apply to this rulemaking because the Commission is issuing this final rule without notice and comment.

V. Paperwork Reduction Act

11. This rule does not require the collection of information. The Commission is therefore not required to submit this rule for review to the Office

of Management and Budget pursuant to the Paperwork Reduction Act of 1995.¹⁷

VI. Document Availability

12. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and print the contents of this document via the internet through the Commission’s Home Page (<http://www.ferc.gov>) and in the Commission’s Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street NE, Room 2A, Washington DC 20426.

13. From the Commission’s Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and downloading. To access this document in eLibrary, type the docket number (excluding the last three digits) in the docket number field.

14. User assistance is available for eLibrary and the Commission’s website during normal business hours from the Commission’s Online Support at (202) 502–6652 (toll free at 1–866–208–3676) or email at ferconlinesupport@ferc.gov, or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659, public.reference@ferc.gov.

VII. Effective Date and Congressional Notification

15. For the same reasons the Commission has determined that public notice and comment are unnecessary,

impractical, and contrary to the public interest, the Commission finds good cause to adopt an effective date that is less than 30 days after the date of publication in the **Federal Register** pursuant to the Administrative Procedure Act,¹⁸ and therefore, the regulation is effective upon publication in the **Federal Register**.

16. The Commission has determined, with the concurrence of the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget, that this rule is not a “major rule” as defined in section 351 of the Small Business Regulatory Enforcement Fairness Act of 1996. This final rule is being submitted to the Senate, House, and Government Accountability Office.

List of Subjects

18 CFR Part 250

Natural gas, Reporting and recordkeeping requirements.

18 CFR Part 385

Administrative practice and procedure, Electric power, Penalties, Pipelines, Reporting and recordkeeping requirements.

By the Commission.

Issued: January 2, 2020.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

In consideration of the foregoing, the Commission amends parts 250 and 385, chapter I, title 18, *Code of Federal Regulations* as follows:

¹² *Id.*

¹³ *Id.* (6).

¹⁴ *Id.* (3)(b)(2).

¹⁵ 5 U.S.C. 601 *et seq.*

¹⁶ 5 U.S.C. 603, 604.

¹⁷ 44 U.S.C. 3507(d).

¹⁸ 5 U.S.C. 553(d)(3).

PART 250—FORMS

■ 1. The authority citation for part 250 continues to read as follows:

Authority: 15 U.S.C. 717–717w, 3301–3432; 42 U.S.C. 7101–7352; 28 U.S.C. 2461 note.

■ 2. Amend § 250.16 by revising paragraph (e)(1) to read as follows:

§ 250.16 Format of compliance plan transportation services and affiliate transactions.

* * * * *

(e) *Penalty for failure to comply.* (1) Any person who transports gas for others pursuant to subpart B or G of part 284 of this chapter and who knowingly violates the requirements of §§ 358.4 and 358.5 of this chapter, this section, or § 284.13 of this chapter will be subject, pursuant to sections 311(c), 501, and 504(b)(6) of the Natural Gas Policy Act of 1978, to a civil penalty, which the Commission may assess, of not more than \$1,291,894 for any one violation.

* * * * *

PART 385—RULES OF PRACTICE AND PROCEDURE

■ 3. The authority citation for part 385 is revised to read as follows:

Authority: 5 U.S.C. 551–557; 15 U.S.C. 717–717w, 3301–3432; 16 U.S.C. 791a–825v, 2601–2645; 28 U.S.C. 2461; 31 U.S.C. 3701, 9701; 42 U.S.C. 7101–7352, 16441, 16451–16463; 49 U.S.C. 60502; 49 App. U.S.C. 1–85 (1988); 28 U.S.C. 2461 note (1990); 28 U.S.C. 2461 note (2015).

■ 4. Revise § 385.1504(a) to read as follows:

§ 385.1504 Maximum civil penalty (Rule 1504).

(a) Except as provided in paragraph (b) of this section, the Commission may assess a civil penalty of up to \$23,331 for each day that the violation continues.

* * * * *

■ 5. Revise § 385.1602 to read as follows:

§ 385.1602 Civil penalties, as adjusted (Rule 1602).

The current inflation-adjusted civil monetary penalties provided by law within the jurisdiction of the Commission are:

(a) 15 U.S.C. 3414(b)(6)(A)(i), Natural Gas Policy Act of 1978: \$1,291,894.

(b) 16 U.S.C. 823b(c), Federal Power Act: \$23,331 per day.

(c) 16 U.S.C. 825n(a), Federal Power Act: \$3,047.

(d) 16 U.S.C. 825o–1(b), Federal Power Act: \$1,291,894 per day.

(e) 15 U.S.C. 717t–1, Natural Gas Act: \$1,291,894 per day.

(f) 49 App. U.S.C. 6(10) (1988), Interstate Commerce Act: \$1,352 per offense and \$68 per day after the first day.

(g) 49 App. U.S.C. 16(8) (1988), Interstate Commerce Act: \$13,525 per day.

(h) 49 App. U.S.C. 19a(k) (1988), Interstate Commerce Act: \$1,352 per day.

(i) 49 App. U.S.C. 20(7)(a) (1988), Interstate Commerce Act: \$1,352 per day.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES**Food and Drug Administration****21 CFR Part 890**

[Docket No. FDA–2019–P–3347]

Medical Devices; Exemption From Premarket Notification; Class II Devices; Powered Wheeled Stretcher

AGENCY: Food and Drug Administration, HHS.

ACTION: Final amendment; final order.

SUMMARY: The Food and Drug Administration (FDA or Agency) is publishing an order granting a petition requesting exemption from premarket notification (510(k)) requirements for powered wheeled stretchers (product code INK). These devices are battery-powered tables with wheels that are intended for medical purposes for use by patients who are unable to propel themselves independently and who must maintain a prone or supine position for prolonged periods because of skin ulcers or contractures (muscle contractions). This order exempts powered wheeled stretchers, class II devices, from 510(k) requirements, subject to certain conditions for exemption. This exemption from 510(k) requirements is immediately in effect for powered wheeled stretchers. FDA is publishing this order in accordance with the section of the Federal Food, Drug, and Cosmetic Act (FD&C Act) permitting the exemption of a device from the requirement to submit a 510(k).

DATES: This order is effective January 14, 2020.

FOR FURTHER INFORMATION CONTACT: Eric Franca, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 1655, Silver Spring, MD 20993–0002, 301–796–4505, eric.franca@fda.hhs.gov.

SUPPLEMENTARY INFORMATION:**I. Statutory Background**

Section 510(k) of the FD&C Act (21 U.S.C. 360(k)) and its implementing regulations in part 807, subpart E (21 CFR part 807, subpart E) require persons who propose to begin the introduction or delivery for introduction into interstate commerce for commercial distribution of a device intended for human use to submit a 510(k) to FDA. The device may not be marketed until FDA finds it “substantially equivalent” within the meaning of section 513(i) of the FD&C Act (21 U.S.C. 360c(i)) to a legally marketed device that does not require premarket approval.

On November 21, 1997, the President signed into law the Food and Drug Administration Modernization Act of 1997 (Pub. L. 105–115), section 206 of which added section 510(m) to the FD&C Act, which was amended on December 13, 2016, by the 21st Century Cures Act (Pub. L. 114–255). Section 510(m)(1) of the FD&C Act requires FDA to publish in the **Federal Register** a notice that contains a list of each type of class II device that does not require a report under section 510(k) of the FD&C Act to provide reasonable assurance of safety and effectiveness of the device. Section 510(m) of the FD&C Act further provides that a 510(k) will no longer be required for these devices upon the date of publication of the list in the **Federal Register**. FDA published that list in the **Federal Register** of January 21, 1998 (63 FR 3142).

Section 510(m)(2) of the FD&C Act provides that FDA may exempt a device from 510(k) requirements on its own initiative, or upon petition of an interested person, if FDA determines that a 510(k) is not necessary to assure the safety and effectiveness of the device. This section requires FDA to publish in the **Federal Register** a notice of intent to exempt a device, or of the petition, and to provide a 60-calendar-day period for public comment. Within 120 days after the issuance of the notice, FDA shall publish an order in the **Federal Register** setting forth the final determination regarding the exemption of the device that was the subject of the notice. If FDA fails to respond to a petition under this section within 180 days of receiving it, the petition shall be deemed granted.

II. Criteria for Exemption

There are a number of factors FDA may consider to determine whether a 510(k) is necessary to assure the safety and effectiveness of a class II device. These factors are discussed in the guidance that the Agency issued on