

“unknown” for this field. Effective December 24, 2021, filers may not state “unknown” for this field.

(iii) For purposes of paragraph (c)(1)(xv) of this section:

(A) The field in the license application requiring identification of the country where the product was most recently cast applies to the country where the aluminum (with or without alloying elements) was last liquified by heat and cast into a solid state. The final solid state can take the form of either a semi-finished product (slab, billets or ingots) or a finished aluminum product.

(B) Filers may not state “not applicable” for this field.

(C) Filers may not state “unknown” for this field.

(4) Upon completion of the form, the importer, customs broker or the importer’s agent will certify as to the accuracy and completeness of the information and submit the form electronically. After refreshing the page, the system will automatically issue an aluminum import license number. The refreshed form containing the submitted information and the newly issued license number will appear on the screen (the “license form”). Filers can print the license form themselves only at that time. For security purposes, users will not be able to retrieve licenses themselves from the license system at a later date for reprinting. If needed, copies of completed license forms can be requested from Commerce during normal business hours.

(d) *Duration of the aluminum import license.* The aluminum import license can be applied for up to 60 days prior to the expected date of importation and until the date of filing of the entry summary documents, or in the case of FTZ admissions, the filing of Customs Form 214, or their electronic equivalents. With the exception of the licenses for FTZ admission (see § 361.101(c)), the aluminum import license is valid for 75 days; however, import licenses that were valid on the date of importation but expired prior to the filing of entry summary data will be accepted.

(e) *Correcting submitted license information.* Users will need to correct licenses themselves if they determine that there was an error submitted. To access a previously issued license, a user must log on with his username and identify the license number and the volume (quantity in kilograms) for the first product shown on the license. The information on the license should match the information presented in the entry summary data as closely as possible. This includes the value and quantity of the shipment, the expected date of

importation, and the Customs port of entry.

(f) *Low-value licenses.* There is one exception to the requirement for obtaining a unique license for each Customs entry. If the total value of the covered aluminum portion of an entry is less than \$5,000, applicants may apply to Commerce for a low-value license that can be used in lieu of a single-entry license for low-value entries.

#### § 361.104 Aluminum import monitoring.

(a) Commerce will maintain an import monitoring system on the public AIM system website that will report certain aggregate information on imports of aluminum products obtained from the aluminum licenses and, where available, from publicly available U.S. import statistics. Aggregate data will be reported, as appropriate, on a monthly basis by country of origin, country of smelt, country of last cast, relevant aluminum product grouping, etc., and will include import quantity (metric tons), import Customs value (U.S. \$), and average unit value (\$/metric ton). The website will also contain certain aggregate data at the 6-digit Harmonized Tariff Schedule level and will also present a range of historical data for comparison purposes. Provision of aggregate data on the website may be revisited should concerns arise over the possible release of proprietary data.

(b) Reported monthly import data will be refreshed each week, as appropriate, with new data on licenses issued during the previous week. This data will also be adjusted periodically for cancelled or unused aluminum import licenses, as appropriate. Additionally, outdated license data will be replaced, where available, with publicly available U.S. import statistics.

#### § 361.105 [Reserved]

#### § 361.106 Fees.

No fees will be charged for obtaining a username, issuing an aluminum import license or accessing the aluminum import monitoring system.

#### § 361.107 Hours of operation.

The automatic licensing system will generally be accessible 24 hours a day, 7 days a week but may be unavailable at selected times for server maintenance. If the system is unavailable for an extended period of time, parties will be able to obtain licenses from Commerce directly via email ([aluminum.license@trade.gov](mailto:aluminum.license@trade.gov)) during regular business hours. Should the system be inaccessible for an extended period of time, Commerce would advise CBP to consider this as part of mitigation on

any liquidated damage claims that may be issued.

#### § 361.108 Loss of electronic licensing privileges.

Should Commerce determine that a filer consistently files inaccurate licensing information or otherwise abuses the licensing system, Commerce may revoke its electronic licensing privileges without prior notice. The filer will then only be able to obtain a license directly from Commerce. Because of the additional time needed to review such forms, Commerce may require up to 10 working days to process such forms. Delays in filing caused by the removal of a filer’s electronic filing privilege will not be considered a mitigating factor by CBP.

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## DEPARTMENT OF LABOR

### Office of the Secretary

#### 29 CFR Part 20

RIN 1290–AA44

#### Second and Subsequent Notifications

**AGENCY:** Office of the Secretary, Labor.  
**ACTION:** Final rule.

**SUMMARY:** This final rule makes two changes. First, the final rule more clearly permits Department of Labor agency heads (or designees) to send second and subsequent demand letters at intervals of time separated by less than thirty days. Second, the final rule encourages debt collection efforts to proceed promptly so that, if needed, uncollected debt may be referred to the Department of Justice in a timely manner.

**DATES:** This final rule is effective on December 23, 2020.

**FOR FURTHER INFORMATION CONTACT:** Erin FitzGerald, Senior Policy Advisor, U.S. Department of Labor, Room S–2312, 200 Constitution Avenue NW, Washington, DC 20210; telephone: (202) 693–5076 (this is not a toll-free number).

#### SUPPLEMENTARY INFORMATION:

##### I. Overview of Amendments

Agencies within the Department of Labor (Department) often must collect debt owed them, including debt relating to legal violations such as citation penalties. To collect such debt, agencies sometimes must send multiple demand letters. Prior to this final rule, 29 CFR 20.55(a) provided that “second and subsequent demands shall generally be

made at 30 day intervals from the first.” The Department’s Office of the Chief Financial Officer (OCFO) has indicated that agencies may have an increased likelihood of securing debt payments if second and subsequent demands are sent at intervals of time separated by less than thirty days. In particular, in reviewing enforcement agency debt collection practices, OCFO has noted that agencies that send out demand letters more quickly and at shorter intervals have higher collection rates than agencies that do not. Although agency heads (or designees) could send second and subsequent demand letters at intervals of time separated by less than thirty days pursuant to 29 CFR 20.55(a) as it existed before this final rule, this final rule amends 29 CFR 20.55(a) to provide clearer notice to the public that agency heads (or designees) can send demand letters in their sole discretion more often than every thirty days.

This final rule also amends 29 CFR 20.55(a) to better describe current Department practice. Prior to this final rule, 29 CFR 20.55(a) stated that “agencies should give due regard to the need to act promptly so that, as a general rule, if necessary to refer the debt to the Department of Justice for litigation, such referral can be made within one year of the final determination of the fact and the amount of the debt.” It has been revised to state that “agencies should give due regard to the need to act promptly so that, if necessary, the debt may be referred in a timely manner to the Department of Justice for litigation.” This change better reflects current practice, pursuant to which the Department of Treasury typically seeks to collect federal debt for up to two years.<sup>1</sup> After two years, the Department of Treasury refers uncollected debt back to the relevant agency, including agencies within the Department of Labor. Because debt is not typically referred back to agencies until the debt is at least two years old, referral to the Department of Justice will generally not be made until the debt is at least two years old.

## II. Administrative Procedure Act

Pursuant to 5 U.S.C. 553, this rule is being published as a final rule to have immediate effect upon publication in the **Federal Register**. This final rule deals only with internal operating procedures regarding the Department’s debt-collection practices. This final rule

thus qualifies as a rule “of agency organization, procedure, or practice” or a “general statement of policy” under 5 U.S.C. 553(b)(A), so it is exempt from the notice-and-comment requirements of the Administrative Procedure Act.

This rule is not a “major rule” under 5 U.S.C. 801(a)(3) nor a “substantive rule” under 5 U.S.C. 553(d) and may also qualify as a “statement [ ] of policy” under 5 U.S.C. 553(d)(2). Thus it can be effective immediately. The Department is making it effective immediately because of its strong interest in promptly collecting debt, especially debt derived from legal violations. The prompt collection of such debt provides the regulated public a stronger incentive to follow the law by showing that duly levied citations and other penalties must in fact be paid. Collecting debts also strengthens the Department’s fisc, which assists with budgeting and offsets funds that might otherwise be requested from Congress and, ultimately, the nation’s taxpayers. Delaying the effective date of this rule would unnecessarily hinder the Department’s law-enforcement mission.

## III. Executive Orders 12866, 13563; Small Business Regulatory Enforcement Fairness Act; Regulatory Flexibility; Paperwork Reduction Act; Unfunded Mandates Reform Act

Executive Order 12866 requires that regulatory agencies assess both the costs and benefits of significant regulatory actions. Under the Executive Order, a “significant regulatory action” is one meeting any of a number of specified conditions, including the following: Having an annual effect on the economy of \$100 million or more; creating a serious inconsistency or interfering with an action of another agency; materially altering the budgetary impact of entitlements or the rights of entitlement recipients; or raising novel legal or policy issues.

The Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB) has determined that this rule is not a “significant regulatory action” under Executive Order 12866 and waived review. This final rule deals only with internal operating procedures regarding the Department’s debt collection practices. Because no notice of proposed rulemaking is required for this rule under section 553(b) of the APA, the requirements of the Regulatory Flexibility Act (5 U.S.C. 601) pertaining to regulatory flexibility do not apply to this rule. See 5 U.S.C. 601(2). Accordingly, the Department is not required to either certify that the final rule would not have a significant

economic impact on a substantial number of small entities or conduct a regulatory flexibility analysis. Because, as noted above, no notice of proposed rulemaking is required for this rule, no requirements of the Unfunded Mandates Reform Act of 1995 are triggered. In addition, the amended regulation contain no additional information-collection or record-keeping requirements under the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.*, and the implementing regulations at 5 CFR part 1320.

## List of Subjects in 29 CFR Part 20

Claims, Income taxes, Reporting and recordkeeping requirements, Wages.

For the reasons discussed in the preamble, the Department of Labor amends 29 CFR part 20 as follows:

## PART 20—FEDERAL CLAIMS COLLECTION

- 1. The authority citation for part 20 continues to read as follows:

**Authority:** 31 U.S.C. 3711 *et seq.*; Subpart D is also issued under 5 U.S.C. 5514; Subpart E is also issued under 31 U.S.C. 3720A; Subpart F is also issued under 31 U.S.C. 3720D.

- 2. Amend § 20.55 by revising paragraph (a) to read as follows:

### § 20.55 Second and subsequent notifications

(a) In accordance with guidelines established by the Chief Financial Officer, the responsible agency head (or designee) shall send progressively stronger second and subsequent demands for payment, if payment or other appropriate response is not received within the time specified by the initial demand. Unless a response to the first or second demand indicates that a further demand would be futile or the debtor’s response does not require rebuttal, the second and subsequent demands shall generally be made at 30-day intervals from the first, and shall state that a 6 percent per annum penalty will be assessed after the debt has been delinquent 90 days, accruing from the date it became delinquent. An agency head (or designee), however, in his or her sole discretion can send second and subsequent demands at shorter intervals. The second and subsequent demands shall identify the amount of interest then accrued on the debt, as well as administrative costs thus far assessed. In determining the timing of the demand letters, agencies should give due regard to the need to act promptly so that, if necessary, the debt may be referred in a timely manner to the Department of Justice for litigation.

<sup>1</sup> See OMB Circular No. A-129, Policies for Federal Credit Programs and Non-Tax Receivables, Section V.E.1. January 2013.

When the agency head (or designee) deems it appropriate to protect the government's interests (for example, to prevent the statute of limitations 28 U.S.C. 2415, from expiring), written demand may be preceded by other appropriate actions, including immediate referral for litigation.

\* \* \* \* \*

Signed on the 18th day of December, 2020, in Washington, DC.

**Eugene Scalia,**

*Secretary, Department of Labor.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 19

[FRL–10018–13–OECA]

#### Civil Monetary Penalty Inflation Adjustment

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is promulgating this final rule to adjust the level of the maximum (and minimum) statutory civil monetary penalty amounts under the statutes the EPA administers. This action is mandated by the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended through the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (“the 2015 Act”). The 2015 Act prescribes a formula for annually adjusting the statutory maximum (and minimum) amount of civil monetary penalties to reflect inflation, maintain the deterrent effect of statutory civil monetary penalties, and promote compliance with the law. The rule does not establish specific civil monetary penalty amounts the EPA may seek in particular cases, as appropriate given the facts of particular cases and applicable agency penalty policies. The EPA’s civil penalty policies, which guide enforcement personnel on how to exercise the EPA’s discretion within statutory penalty authorities, take into account a number of fact-specific considerations, *e.g.*, the seriousness of the violation, the violator’s good faith efforts to comply, any economic benefit gained by the violator as a result of its noncompliance, and a violator’s ability to pay.

**DATES:** This final rule is effective December 23, 2020.

**FOR FURTHER INFORMATION CONTACT:** David Smith-Watts, Office of Civil

Enforcement, Office of Enforcement and Compliance Assurance, Mail Code 2241A, Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460, telephone number: (202) 564–4083; *smith-watts.david@epa.gov*.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Since 1996, Federal agencies have been required to issue regulations adjusting for inflation the statutory civil monetary penalties<sup>1</sup> that can be imposed under the laws administered by that agency. The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996 (DCIA), required agencies to review their statutory civil monetary penalties every four years, and to adjust the statutory civil monetary penalty amounts for inflation if the increase met the DCIA’s adjustment methodology. In accordance with the DCIA, the EPA reviewed and, as appropriate, adjusted the civil monetary penalty levels under each of the statutes the agency implements in 1996 (61 FR 69360), 2004 (69 FR 7121), 2008 (73 FR 75340), and 2013 (78 FR 66643).

The 2015 Act<sup>2</sup> required each Federal agency to adjust the level of statutory civil monetary penalties under the laws implemented by that agency with an initial “catch-up” adjustment through an interim final rulemaking. The 2015 Act also required Federal agencies, beginning on January 15, 2017, to make subsequent annual adjustments for inflation. Section 4 of the 2015 Act requires each Federal agency to publish these adjustments by January 15 of each year. The purpose of the 2015 Act is to maintain the deterrent effect of civil monetary penalties by translating originally enacted statutory civil penalty amounts to today’s dollars and rounding statutory civil penalties to the nearest dollar.

As required by the 2015 Act, the EPA issued a catch-up rule on July 1, 2016, which was effective August 1, 2016 (81 FR 43091). The EPA has made four

<sup>1</sup> The Federal Civil Penalties Inflation Adjustment Act of 1990, Public Law 101–410, 28 U.S.C. 2461 note, defines “civil monetary penalty” as any penalty, fine, or other sanction that—(1)(i) is for a specific monetary amount as provided by Federal law; or (ii) has a maximum amount provided for by Federal law; and (2) is assessed or enforced by an agency pursuant to Federal law; and (3) is assessed or enforced pursuant to an administrative proceeding or a civil action in the Federal courts.

<sup>2</sup> The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Section 701 of Pub. L. 114–74) was signed into law on November 2, 2015, and further amended the Federal Civil Penalties Inflation Adjustment Act of 1990.

annual adjustments since then: On January 12, 2017, effective on January 15, 2017 (82 FR 3633); on January 10, 2018, effective on January 15, 2018 (83 FR 1190); on February 6, 2019, effective February 6, 2019 (84 FR 2056), and issued a subsequent correction on February 25, 2019 (84 FR 5955); and on January 13, 2020, effective the same day (85 FR 1751). This rule implements the fifth annual adjustment mandated by the 2015 Act.

The 2015 Act provides a formula for calculating the adjustments. Each statutory maximum and minimum<sup>3</sup> civil monetary penalty as currently adjusted is multiplied by the cost-of-living adjustment multiplier, which is the percentage by which the Consumer Price Index for all Urban Consumers (CPI-U) for the month of October 2020 exceeds the CPI-U for the month of October 2019.<sup>4</sup>

With this rule, the new statutory maximum and minimum penalty levels listed in the third column of Table 1 of 40 CFR 19.4 will apply to all civil monetary penalties assessed on or after December 23, 2020, for violations that occurred after November 2, 2015, the date the 2015 Act was enacted. The former maximum and minimum statutory civil monetary penalty levels, which are in the fourth column of Table 1 to 40 CFR 19.4, will now apply only to violations that occurred after November 2, 2015, where the penalties were assessed on or after January 13, 2020, but before December 23, 2020. The statutory civil monetary penalty levels that apply to violations that occurred on or before November 2, 2015, are codified at Table 2 to 40 CFR 19.4. The fifth column of Table 1 and the seventh column of Table 2 display the statutory civil monetary penalty levels as originally enacted.

The formula for determining the cost-of-living or inflation adjustment to

<sup>3</sup> Under Section 3(2)(A) of the 2015 Act, “civil monetary penalty” means “a specific monetary amount as provided by Federal law”; or “has a maximum amount provided for by Federal law.” EPA-administered statutes generally refer to statutory maximum penalties, with the following exceptions: Section 311(b)(7)(D) of the Clean Water Act, 33 U.S.C. 1321(b)(7)(D), refers to a minimum penalty of “not less than \$100,000 . . .”; Section 104B(d)(1) of the Marine Protection, Research, and Sanctuaries Act, 33 U.S.C. 1414b(d)(1), refers to an exact penalty of \$600 “[f]or each dry ton (or equivalent) of sewage sludge or industrial waste dumped or transported by the person in violation of this subsection in calendar year 1992. . .”; and Section 325(d)(1) of the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. 11045(d)(1), refers to an exact civil penalty of \$25,000 for each frivolous trade secret claim.

<sup>4</sup> Current and historical CPI-U’s can be found on the Bureau of Labor Statistics’ website here: <https://www.bls.gov/cpi/tables/supplemental-files/historical-cpi-u-202010.pdf>.