This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents.

FARM CREDIT ADMINISTRATION

12 CFR Part 622

RIN 3052–AD45

Rules of Practice and Procedure; Adjusting Civil Money Penalties for Inflation

AGENCY: Farm Credit Administration.

ACTION: Final rule.

SUMMARY: This regulation implements inflation adjustments to civil money penalties (CMPs) that the Farm Credit Administration (FCA) may impose or enforce pursuant to the Farm Credit Act of 1971, as amended (Farm Credit Act), and pursuant to the Flood Disaster Protection Act of 1973, as amended by the National Flood Insurance Reform Act of 1994, and further amended by the Biggert-Waters Flood Insurance Reform Act of 2012 (collectively, 1990 Act, as amended), and the Federal Civil Penalties Inflation Adjustment Act of 2015 (2015 Act) (collectively, 1990 Act, as amended).

Note: While the 1990 Act, as amended by 1996 and 2015 Acts, uses the term “civil monetary penalties” for these penalties or other sanctions, the Farm Credit Act and the FCA Regulations use the term “civil money penalties.” Both terms have the same meaning. Accordingly, this rule uses the term civil money penalty, and both terms may be used interchangeably.

Note: The inflation-adjusted CMP in effect on January 15, 2020, for a violation of the Farm Credit Act or any regulation issued under the Farm Credit Act must pay a maximum daily amount of $1,000, for each day such violation continues. This CMP maximum was set by the Farm Credit Amendments Act of 1985, which amended the Farm Credit Act. Orders issued by the FCA under section 5.25 or 5.26 of the Farm Credit Act include temporary and permanent cease-and-desist orders. In addition, section 5.32(h) of the Farm Credit Act provides that any directive issued under sections 4.3(b)(2), 4.3A(e), or 4.14A(i) of the Farm Credit Act “shall be treated” as a final order issued under section 5.25 of the Farm Credit Act for purposes of assessing a CMP.

The FCA also enforces the FDPA, as amended, which requires FCA to assess CMPs for a pattern or practice of committing certain specific actions in violation of the National Flood Insurance Program. The existing maximum CMP for a violation under the Flood Disaster Protection Act of 1973 is $2,000.

C. Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015

1. In General

The 2015 Act required all Federal agencies to adjust the CMPs yearly, starting January 15, 2017.

Under Section 4(b) of the 1990 Act, as amended, annual adjustments are to be made yearly no later than January 15 of regulations. We discovered a transposition error, and note that the correct number for 2020 is $2,367.

The inflation-adjusted CMP in effect on January 15, 2020, for a violation of the Farm Credit Act or a regulation issued under the Farm Credit Act is $1,071 per day, as set forth in §622.61(a)(2) of FCA regulations.

Prior adjustments were made under the 1990 Act and continue to be made each year.


The inflation-adjusted CMP in effect on January 15, 2020, for a flood insurance violation is $2,226, as set forth in §622.61(b) of FCA regulations.

Notes:
1. In General
2. Note:
6. The inflation-adjusted CMP in effect on January 15, 2020, for a violation of a final order is $2,404 per day, as set forth in §622.61(a)(1) of FCA regulations.
7. The inflation-adjusted CMP in effect on January 15, 2020, for a Flood Disaster Protection Act violation is $2,000.

A. Introduction

each year.\textsuperscript{10} Section 6 of the 1990 Act, as amended, states that any increase to a civil monetary penalty under this 1990 Act applies only to civil monetary penalties, including those whose associated violation predated such increase, which are assessed after the date the increase takes effect.

Section 5(b) of the 1990 Act, as amended, defines the term “cost-of-living adjustment” as the percentage (if any) for each civil monetary penalty by which (1) the Consumer Price Index (CPI) for the month of October of the calendar year preceding the adjustment, exceeds (2) the CPI for the month of October 1 year before the month of October referred to in (1) of the calendar year in which the amount of such civil monetary penalty was last set or adjusted pursuant to law.\textsuperscript{11}

The increase for each CMP adjusted for inflation must be rounded using a method prescribed by section 5(a) of the 1990 Act, as amended.\textsuperscript{12} The adjustment requirement affects the Farm Credit Act occurring on or after January 15, 2021. Thus, the new CMP maximum is $2,252, for violations that occur on or after January 15, 2021.

The inflation-adjusted CMP currently in effect for violations of a final order occurring on or after January 15, 2020, is a maximum daily amount of $2,367. Multiplying the $2,367 CMP by the 2020 OMB multiplier, 1.01182, yields a total of $2,394.98. When that number is rounded as required by section 5(a) of the 1990 Act, as amended, the inflation-adjusted maximum increases to $2,395. Thus, the new CMP maximum is $2,395, for violations that occur on or after January 15, 2021.

The existing maximum CMP for a pattern or practice of flood insurance violations pursuant to 42 U.S.C. 4012a(f)(5) occurring on or after January 15, 2020, is $2,226. Multiplying $2,226 by the 2020 OMB multiplier, 1.01182, yields a total of $2,252.31. When that number is rounded as required by section 5(a) of the 1990 Act, as amended, the new maximum assessment of the CMP for violating 42 U.S.C. 4012a(f)(5) is $2,252. Thus, the new CMP maximum is $2,252, for violations that occur on or after January 15, 2021.

IV. Notice and Comment Not Required by Administrative Procedure Act

The 1990 Act, as amended, gives Federal agencies no discretion in the adjustment of CMPs for the rate of inflation. Further, these revisions are ministerial, technical, and noncontroversial. For these reasons, the FCA finds good cause to determine that public notice and an opportunity to comment are impracticable, unnecessary, and contrary to the public interest pursuant to the Administrative Procedure Act, 5 U.S.C. 553(b)(B), and adopts this rule in final form.

V. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the FCA hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities. Each of the banks in the System, considered together with its affiliated associations, has assets and annual income in excess of the amounts that would qualify them as small entities. Therefore, System institutions are not “small entities” as defined in the Regulatory Flexibility Act.

List of Subjects in 12 CFR Part 622

Administrative practice and procedure, Crime, Investigations, Penalties.

For the reasons stated in the preamble, part 622 of chapter VI, title 12 of the Code of Federal Regulations is amended as follows:

PART 622—RULES OF PRACTICE AND PROCEDURE

\textsuperscript{10} Public Law 114–74, sec. 701(b)(1).

\textsuperscript{11} The CPI is published by the Department of Labor, Bureau of Statistics, and is available at its website: https://www.bls.gov/cpi/.

\textsuperscript{12} Pursuant to section 5(a)(3) of the 2015 Act, any increase determined under the subsection shall be rounded to the nearest $1.

\textsuperscript{13} Pursuant to section 4(d) of the 1990 Act, as amended.


\textsuperscript{15} 28 U.S.C. 2461 note, section 7(a).
for violation of a final order issued under section 5.25 or 5.26 of the Act: The maximum daily amount is $2,395 for violations that occur on or after January 15, 2021.

(2) Amount of civil money penalty for violation of the Act or regulations: The maximum daily amount is $1,084 for each violation that occurs on or after January 15, 2021.

(b) The maximum civil money penalty amount assessed under 42 U.S.C. 4012a(f) is $2,252 for each violation that occurs on or after January 15, 2021.

The maximum daily amount is $2,395 for violation of the Act or regulations: The amount assessed under 42 U.S.C. January 15, 2021. Each violation that occurs on or after January 15, 2021. The maximum daily amount is $2,395 for violation of a final order issued

The AIM system website is https://www.trade.gov/aluminum. FOR FURTHER INFORMATION CONTACT: Julie Al-Saadawi at (202) 482–1930 or Jessica Link at (202) 482–1411.

SUPPLEMENTARY INFORMATION: On December 23, 2020, Commerce published the final rule and accompanying regulations establishing the Aluminum Import Monitoring and Analysis (AIM) system. The original effective date for the Final Rule was January 25, 2021. Commerce is now delaying the effective date until March 29, 2021.

This delay in effective date is necessary to allow the incoming Administration time to review the Final Rule and consider any additional comments before implementation. Unless otherwise announced, the majority of the final rule will be effective on March 29, 2021. The remaining portions of the final rule concerning an option to state “unknown” for certain fields on the aluminum license form will be effective on December 24, 2021, as originally stated in the final rule. For further background and information, see the Final Rule. Parties are invited to comment on all aspects of the Final Rule and the AIM system.

The AIM system website (https://www.trade.gov/aluminum) continues to be operational. However, licenses will not be required for covered aluminum imports until on or after March 29, 2021. Further guidance on licenses already issued and the issuance of new licenses during the intervening period prior to March 29, 2021 will be provided on the AIM system website.

Dated: January 22, 2021.

Christian Marsh,
Acting Assistant Secretary for Enforcement and Compliance.

DEPARTMENT OF LABOR
Office of the Secretary
29 CFR Part 89
RIN 1290–AA41
Rescission of Department of Labor Rule on Guidance
AGENCY: Office of the Secretary, U.S. Department of Labor.
ACTION: Final rule; rescission of regulations.

SUMMARY: On August 28, 2020, the Department of Labor published a final rule on guidance implementing an Executive order entitled “Promoting the Rule of Law Through Improved Agency Guidance Documents,” and providing policy and requirements for issuing, modifying, withdrawing, and using guidance; making guidance available to the public; a notice and comment process for significant guidance; and taking and responding to petitions about guidance. In accordance with the “Executive Order on Revocation of Certain Executive Orders Concerning Federal Regulation,” issued by President Biden on January 20, 2021, this final rule rescinds the Department’s rule on guidance.

DATES: This final rule is effective January 27, 2021.

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. Discussion

On August 28, 2020, the Department of Labor published an internal final rule on guidance implementing E.O. 13891, “Promoting the Rule of Law Through Improved Agency Guidance Documents,” signed by President Trump on October 9, 2019. As required by the E.O., the rule contained policy and requirements for issuing, modifying, withdrawing, and using guidance; making guidance available to the public; a notice and comment