

# Rules and Regulations

Federal Register

Vol. 86, No. 109

Wednesday, June 9, 2021

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.

## DEPARTMENT OF AGRICULTURE

### Office of the Secretary

#### 7 CFR Part 3

[Docket No. USDA–2020–0011]

RIN 0503–AA72

#### Civil Monetary Penalty Inflation Adjustments for 2021; Correction

**AGENCY:** Office of the Secretary, U.S. Department of Agriculture (USDA).

**ACTION:** Correcting amendment.

**SUMMARY:** On May 10, 2021, we published a final rule amending the U.S. Department of Agriculture’s civil monetary penalty regulations by making inflation adjustments as mandated by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015. We are correcting an error that appeared in that final rule.

**DATES:** Effective June 9, 2021.

**FOR FURTHER INFORMATION CONTACT:** Mr. Stephen O’Neill, Office of Budget and Program Analysis, USDA, 1400 Independence Avenue SW, Washington, DC 20250–1400, (202) 720–0038.

**SUPPLEMENTARY INFORMATION:** In a final rule published and effective on June 17, 2020 (85 FR 36670–36714), we amended the U.S. Department of Agriculture’s (USDA’s) debt management regulations in 7 CFR part 3. As part of that final rule, we revised the regulations in § 3.91 to update the amount of civil monetary penalties that may be levied by USDA agencies to reflect inflationary adjustments for 2020 as required by the 2015 Civil Penalties Act.

In making those updates, we inadvertently introduced an error into paragraph (b)(2)(xiv) of § 3.91. Prior to the effective date of the June 2020 final rule, that paragraph had specified that the civil penalty for a violation of the Commercial Transportation of Equine for Slaughter Act, 7 U.S.C. 1901 note, and its implementing regulations in 9 CFR part 88, as set forth in 9 CFR 88.6,

has a maximum of \$5,000. The June 2020 final rule should have adjusted that maximum amount to \$5,088 consistent with the guidance contained in Office of Management and Budget memorandum M–20–05, which provided a cost-of-living adjustment multiplier for 2020 of 1.01764. However, due to a drafting error, the amount that appeared was \$812.

That error carried over into our 2021 adjustments, which were published and effective on May 10, 2021 (86 FR 24699–24703), in which we applied the 2021 cost-of-living adjustment multiplier (1.01182) to the incorrect \$812 figure to arrive at an adjusted penalty of \$822.

To address these errors, we are amending 7 CFR 3.91(b)(2)(xiv) to replace the incorrect penalty amount with the correct amount, which is \$5,148 (*i.e.*, the correct 2020 figure of \$5,088 times the 2021 multiplier).

#### List of Subjects in 7 CFR Part 3

Administrative practice and procedure, Claims, Government employees, Income taxes, Loan programs-agriculture, Penalties, Reporting and recordkeeping requirements, Wages.

Accordingly, we are amending 7 CFR part 3 as follows:

#### PART 3—DEBT MANAGEMENT

##### Subpart I—Adjusted Civil Monetary Penalties

- 1. The authority citation for part 3, subpart I, continues to read as follows:

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

##### § 3.91 [Amended]

- 2. In § 3.91, paragraph (b)(2)(xiv) is amended by removing the amount “\$822” and adding the amount “\$5,148” in its place.

**John Rapp,**

*Acting Director, Office of Budget and Program Analysis.*

[FR Doc. 2021–12110 Filed 6–8–21; 8:45 am]

**BILLING CODE 3410–90–P**

## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

#### 15 CFR Part 760

[Docket No. 210528–0118]

RIN 0694–AI48

#### Export Administration Regulations: Termination of United Arab Emirates Participation in the Arab League Boycott of Israel

**AGENCY:** Bureau of Industry and Security, Commerce.

**ACTION:** Final rule.

**SUMMARY:** In this final rule, the Bureau of Industry and Security (BIS) amends the Export Administration Regulations (EAR) to reflect the formal termination by the United Arab Emirates (UAE) of its participation in the Arab League Boycott of Israel. Specifically, in recognition of the UAE’s August 16, 2020 issuance of Federal Decree-Law No. 4 of 2020, certain requests for information, action or agreement from the UAE, which were presumed to be boycott-related if made prior to August 16, 2020, would not be presumed to be boycott-related if made following that date, and thus would not be prohibited or reportable under the EAR. Accordingly, BIS adds an interpretation to the Restrictive Trade Practices or Boycotts regulations of the EAR, which sets forth BIS’s view that the prohibitions and reporting requirements contained in the EAR’s antiboycott provisions do not apply to such requests from the UAE made after August 16, 2020.

**DATES:** This rule is effective June 8, 2021.

**FOR FURTHER INFORMATION CONTACT:** Cathleen Ryan, Director, Office of Antiboycott Compliance, Bureau of Industry and Security, U.S. Department of Commerce, by email at [OAC.WebQueries@bis.doc.gov](mailto:OAC.WebQueries@bis.doc.gov) or [OACINQUIRIES@bis.doc.gov](mailto:OACINQUIRIES@bis.doc.gov), or by phone at 202–482–2381.

#### SUPPLEMENTARY INFORMATION:

##### Background

The Office of Antiboycott Compliance (OAC) administers and enforces the antiboycott provisions set forth in part 760 (Restrictive Trade Practices and Boycotts) of the Export Administration

Regulations (EAR) (15 CFR parts 730 through 774). These antiboycott provisions discourage, and in certain circumstances prohibit, United States persons from taking specific actions in furtherance or support of an unsanctioned foreign boycott by a country against a country friendly to the United States, including complying with certain requests to provide information about business relationships with a boycotted country or with blacklisted persons or to refuse to do business with certain persons for boycott-related reasons. Pursuant to part 760 of the EAR, the receipt of such requests may be reportable to OAC.

In connection with an agreement between the United Arab Emirates (UAE) and Israel establishing full diplomatic and commercial relations and normalization (the “Abraham Accords”), on August 16, 2020, the UAE issued Federal Decree-Law No. 4 of 2020, which repealed Federal Law No. 15 of 1972 Concerning the Arab League Boycott of Israel (“August 16, 2020 decree”), thereby formally ending the UAE’s participation in the Arab League Boycott of Israel.

In this final rule, the Bureau of Industry and Security (BIS) amends part 760 of the EAR to add an Interpretation that reflects the UAE’s formal termination (through the issuance of the August 16, 2020 decree) of its participation in the Arab League Boycott of Israel. In making this amendment, BIS has also taken into account actions that the UAE Government has undertaken to implement, in policy and practice, the August 16, 2020 decree. As set forth in this Interpretation, which will appear as new Supplement No. 17 to part 760 of the EAR, certain requests for information, action or agreement from the UAE that were presumed to be boycott-related prior to August 16, 2020 would not be presumed to be boycott-related if issued after August 16, 2020, and thus would not be subject to the prohibitions or reporting requirements of part 760 of the EAR. Further, the Interpretation reminds United States persons that requests that are on their face boycott-related or that are for action obviously in furtherance or support of an unsanctioned foreign boycott are subject to part 760 of the EAR, irrespective of the country of origination.

#### Export Control Reform Act of 2018

On August 13, 2018, President Donald J. Trump signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which included the Export Control Reform Act of 2018 (ECRA) (50 U.S.C. 4801–4852).

Part II of ECRA contains the Anti-Boycott Act of 2018. ECRA provides the legal basis for BIS’s principal authorities and serves as the authority under which BIS issues this rule.

#### Rulemaking Requirements

1. Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distribute impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This final rule has been designated as not significant for purposes of Executive Order 12866.

2. This rule does not contain policies with Federalism implications as that term is defined under Executive Order 13132.

3. Pursuant to section 1762 of the Export Control Reform Act of 2018 (50 U.S.C. 4821), this action is exempt from the Administrative Procedure Act (5 U.S.C. 553) requirements for notice of proposed rulemaking, opportunity for public participation, and delay in effective date.

4. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, are not applicable. This rule reflects a policy development involving the United Arab Emirates that advances the U.S. Government’s foreign policy and national security. Accordingly, no regulatory flexibility analysis is required, and none has been prepared.

5. Notwithstanding any other provision of law, no person may be required to respond to or be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This regulation involves a collection currently approved by OMB under control number 0694–0012, Report of Requests for Restrictive Trade Practice or Boycott—Single or Multiple Transactions. The collection carries a burden estimate of 60 to 90 minutes for a manual or electronic submission for a total burden estimate of 482 hours. BIS expects the burden

hours associated with this collection to decrease with the publication of this rule.

#### List of Subjects in 15 CFR Part 760

Exports, Reporting and recordkeeping requirements, Trade practices.

Accordingly, part 760 of the Export Administration Regulations (15 CFR parts 730–774) is amended as follows:

#### PART 760—RESTRICTIVE TRADE PRACTICES OR BOYCOTTS

■ 1. The authority citation for part 760 is revised to read as follows:

**Authority:** 50 U.S.C. 4801–4852; 50 U.S.C. 4601 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783.

■ 2. Add supplement no. 17 to part 760 to read as follows:

#### Supplement No. 17 to Part 760— Interpretation

Pursuant to the agreement between the United Arab Emirates (UAE) and Israel establishing diplomatic and commercial relations (the “Abraham Accords”), on August 16, 2020, the UAE issued Federal Decree-Law No. 4 of 2020, abolishing Federal Law No. 15 of 1972 Concerning the Arab League Boycott of Israel, thereby formally terminating participation by the UAE in the Arab League Boycott of Israel as of that date.

On the basis of this action, it is the Department’s position that certain requests for information, action or agreement from the UAE, which were presumed to be boycott-related under this part of the EAR if issued prior to August 16, 2020, would not be presumed to be boycott-related if issued after August 16, 2020, and thus would not be prohibited or reportable under this part of the EAR.

For example, a request from the UAE that an exporter certify that the vessel on which it is shipping its goods is eligible to enter UAE ports was formerly presumed to be a boycott-related request under this part of the EAR with which the exporter could not comply because the UAE had a boycott law in force against Israel. Such a request from the UAE made after August 16, 2020, would no longer be presumed to be boycott-related because the underlying boycott requirement/basis for the certification was eliminated as of August 16, 2020. Similarly, a U.S. company would not be prohibited from complying with a request made by UAE government officials after August 16, 2020, to furnish the place of birth of employees the company is seeking to take to the UAE because there is no underlying

UAE government boycott law or policy that would give rise to a presumption that the request was boycott-related.

U.S. persons are reminded that requests that are on their face boycott-related or that are for action obviously in furtherance or support of an unsanctioned foreign boycott are subject to this part of the EAR, irrespective of the country of origination. For example, requests containing references to “blacklisted companies,” “Israel boycott list,” “non-Israeli goods,” or other phrases or words indicating a boycott purpose would be subject to the appropriate provisions of the Department’s antiboycott regulations in this part.

**Matthew S. Borman,**

*Deputy Assistant Secretary for Export Administration.*

[FR Doc. 2021-12125 Filed 6-7-21; 4:15 pm]

**BILLING CODE 3510-33-P**

## DEPARTMENT OF THE TREASURY

### 31 CFR Part 50

#### **Terrorism Risk Insurance Program; Updated Regulations in Light of the Terrorism Risk Insurance Program Reauthorization Act of 2019, and for Other Purposes**

**AGENCY:** Departmental Offices, Department of the Treasury.

**ACTION:** Final rule.

**SUMMARY:** The Department of the Treasury (Treasury) is issuing this final rule to implement technical changes to the Terrorism Risk Insurance Program (TRIP or Program) rules in response to the Terrorism Risk Insurance Program Reauthorization Act of 2019. In addition, Treasury is issuing this final rule to: Clarify the manner in which Treasury will calculate “property and casualty insurance losses” for purposes of considering certification of an act of terrorism, and “insured losses” when administering the financial sharing mechanisms under the Program, including the Program Trigger and Program Cap; incorporate into the Program rules the prior guidance provided by Treasury in connection with stand-alone cyber insurance under the Program; and provide updated links to additional information found on the Program’s website relating to administration of the Program. The changes were published in proposed form for public comment by Treasury on November 10, 2020.

**DATES:** This rule is effective July 12, 2021.

**FOR FURTHER INFORMATION CONTACT:** Richard Ifft, Senior Insurance Regulatory Policy Analyst, Federal Insurance Office, 202-622-2922, Lindsey Baldwin, Senior Insurance Regulatory Policy Analyst, Federal Insurance Office, 202-622-3220, or Daniel McKnight, Policy Analyst, 202-622-7009.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

The Terrorism Risk Insurance Act of 2002 (as amended, the Act or TRIA)<sup>1</sup> was enacted on November 26, 2002, following the attacks of September 11, 2001, to address disruptions in the market for terrorism risk insurance, help ensure the continued availability and affordability of commercial property and casualty insurance for terrorism risk, and allow for the private markets to stabilize and build insurance capacity to absorb any future losses for terrorism events.<sup>2</sup> TRIA requires insurers to “make available” terrorism risk insurance for commercial property and casualty losses resulting from certified acts of terrorism (termed “insured losses” under TRIA), and provides for shared public and private compensation for such insured losses. The Program has been reauthorized four times, most recently by the Terrorism Risk Insurance Program Reauthorization Act of 2019 (2019 Reauthorization Act).<sup>3</sup>

The Secretary of the Treasury (Secretary) administers the Program, with the assistance of the Federal Insurance Office (FIO).<sup>4</sup> To assist insurers, policyholders, and other interested parties in understanding and complying with the requirements of the Act, Treasury has issued regulations implementing the Program (the Program Rules).<sup>5</sup> In some instances, Treasury has also issued interim guidance that may be relied upon by insurers until superseded by any regulations. Of

<sup>1</sup> Public Law 107-297, 116 Stat. 2322, codified at 15 U.S.C. 6701 note. Because the provisions of TRIA (as amended) appear in a note instead of particular sections of the U.S. Code, the provisions of TRIA are identified by the sections of the law.

<sup>2</sup> TRIA sec. 101(b).

<sup>3</sup> See Terrorism Risk Insurance Extension Act of 2005, Public Law 109-144, 119 Stat. 2660; Terrorism Risk Insurance Program Reauthorization Act of 2007, Public Law 110-160, 121 Stat. 1839; Terrorism Risk Insurance Program Reauthorization Act of 2015, Public Law 114-1, 129 Stat. 3; Terrorism Risk Insurance Program Reauthorization Act of 2019, Public Law 116-94, 133 Stat. 2534.

<sup>4</sup> 31 U.S.C. 313(c)(1)(D).

<sup>5</sup> See 31 CFR part 50. Treasury summarized the history of prior rulemakings in connection with the Program in a 2016 proposed rulemaking proposing rule changes to implement the 2015 Reauthorization Act. See 81 FR 18950, 18950-91 (Apr. 1, 2016), <https://www.federalregister.gov/documents/2016/04/01/2016-06920/terrorism-risk-insurance-program>.

relevance to this final rule, in December 2016, Treasury issued interim guidance confirming that certain stand-alone cyber coverage written in a TRIP-eligible line of insurance was within the scope of the Program, such that insurers were obligated to adhere to the “make available” and disclosure requirements under TRIA for such coverage (Cyber Guidance).<sup>6</sup>

Treasury proposed the changes in this final rule in a November 2020 notice of proposed rulemaking (the November 2020 NPRM).<sup>7</sup> In response to the reauthorization of the Program for an additional seven years under the 2019 Reauthorization Act, Treasury proposed certain technical changes to align the Program Rules to the new dates for expiration of the Program and schedule for recoupment of any payments. Treasury also proposed in the November 2020 NPRM certain definitional changes to confirm and clarify the guidance on cyber coverage in this area that Treasury provided in its December 2016 Cyber Guidance. In addition, Treasury proposed in the November 2020 NPRM several changes, in part in response to a report by the Government Accountability Office (GAO), addressing certain sources of risk and uncertainty related to the Program.<sup>8</sup> In its report, GAO indicated that, based upon its engagement with stakeholders during the preparation of the report, some uncertainty may exist about how Treasury would apply policyholder retention amounts in calculating “property and casualty insurance losses” versus “insured losses” to determine the Program certification threshold, Program Trigger, and Program Cap.<sup>9</sup> GAO recommended that Treasury provide further clarification to “prevent uncertainty in the insurance market and potential litigation following a terrorist event that that could delay insurance payments and economic recovery.”<sup>10</sup> Treasury proposed certain

<sup>6</sup> Guidance Concerning Stand-Alone Cyber Liability Insurance Policies Under the Terrorism Risk Insurance Program, 81 FR 95312 (Dec. 27, 2016), <https://www.federalregister.gov/documents/2016/12/27/2016-31244/guidance-concerning-stand-alone-cyber-liability-insurance-policies-under-the-terrorism-risk>.

<sup>7</sup> Terrorism Risk Insurance Program; Updated Regulations in Light of the Terrorism Risk Insurance Program Reauthorization Act of 2019, and for Other Purposes, 85 FR 71588 (Nov. 10, 2020), <https://www.federalregister.gov/documents/2020/11/10/2020-24522/terrorism-risk-insurance-program-updated-regulations-in-light-of-the-terrorism-risk-insurance>.

<sup>8</sup> GAO, *Terrorism Risk Insurance: Program Changes Have Reduced Federal Fiscal Exposure* (GAO-20-348) (Apr. 2020), <https://www.gao.gov/assets/710/706243.pdf>.

<sup>9</sup> *Id.* at 18-19.

<sup>10</sup> *Id.* at 19.