

## NATIONAL TRANSPORTATION SAFETY BOARD

### 49 CFR Part 831

[Docket No.: NTSB–2024–0001]

RIN 3147–AA24

### Civil Monetary Penalty Annual Inflation Adjustment

**AGENCY:** National Transportation Safety Board (NTSB).

**ACTION:** Final rule.

**SUMMARY:** Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, this final rule provides the 2024 adjustment to the civil penalties that the agency may assess for violations of certain NTSB statutes and regulations.

**DATES:** This final rule is effective on January 9, 2024.

**ADDRESSES:** A copy of this final rule, published in the **Federal Register** (FR), is available at <https://www.regulations.gov> (Docket ID Number NTSB–2024–0001).

**FOR FURTHER INFORMATION CONTACT:** William Thomas (Tom) McMurry, Jr., General Counsel, (202) 314–6080 or [rulemaking@ntsb.gov](mailto:rulemaking@ntsb.gov).

#### SUPPLEMENTARY INFORMATION:

#### I. Background

The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (the 2015 Act) requires, in pertinent part, agencies to make an annual adjustment for inflation by January 15th every year. OMB, M–16–06, *Implementation of the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015* (Feb. 24, 2016). The Office of Management and Budget (OMB) annually publishes guidance on the adjustment multiplier to assist agencies in calculating the mandatory annual adjustments for inflation.

The NTSB’s most recent adjustment was for fiscal year (FY) 2023, allowing the agency to impose a civil penalty up to \$1,993, effective January 18, 2023 for violations involving 49 U.S.C. 1132 (Civil aircraft accident investigations), 1134(b) (Inspection, testing, preservation, and moving of aircraft and parts), 1134(f)(1) (Autopsies), or 1136(g) (Prohibited actions when providing assistance to families of passengers involved in aircraft accidents). Civil Monetary Penalty Annual Inflation Adjustment, 88 FR 2858 (Jan. 18, 2023).

OMB has since published updated guidance for FY 2024. OMB, M–24–07, *Implementation of Penalty Inflation Adjustments for 2024, Pursuant to the*

*Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015* (Dec. 19, 2023). Accordingly, this final rule reflects the NTSB’s 2024 annual inflation adjustment and updates the maximum civil penalty from \$1,993 to \$2,058.

#### II. The 2024 Annual Adjustment

The 2024 annual adjustment is calculated by multiplying the applicable maximum civil penalty amount by the cost-of-living adjustment multiplier, which is based on the Consumer Price Index and rounding to the nearest dollar. OMB, M–23–05, *Implementation of Penalty Inflation Adjustments for 2024, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015* (Dec. 19, 2023). For FY 2024, OMB’s guidance states that the cost-of-living adjustment multiplier is 1.03241.

Accordingly, multiplying the current penalty of \$1,993 by 1.03241 equals \$2,057.59313 which rounded up to the nearest dollar equals \$2,058. This updated maximum penalty for the upcoming fiscal year applies only to civil penalties assessed after the effective date of this final rule. The next civil penalty adjustment for inflation will be calculated by January 15, 2025.

#### III. Regulatory Analysis

The Office of Information and Regulatory Affairs has determined that agency regulations that exclusively implement the annual adjustment are consistent with OMB’s annual guidance, and have an annual impact of less than \$200 million are generally not significant regulatory actions under Executive Order (E.O.) 12866. OMB, M–23–05, *Implementation of Penalty Inflation Adjustments for 2024, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015* (Dec. 19, 2023). Thus, an assessment of its potential costs and benefits under E.O. 12866, *Regulatory Planning and Review* and E.O. 13563, *Improving Regulation and Regulatory Review* is not required because this final rule is not a “significant regulatory action.” Likewise, this rule does not require analyses under the Unfunded Mandates Reform Act of 1995 because this final rule is not significant.

The Regulatory Flexibility Act (5 U.S.C. 801 *et seq.*) requires each agency to review its rulemaking to assess the potential impact on small entities, unless the agency determines a rule is not expected to have a significant economic impact on a substantial number of small entities. In accordance with 5 U.S.C. 605(b), the NTSB certifies that the final rule will not have a

significant economic impact on a substantial number of small entities; only those entities that are determined to have violated Federal law and regulations would be affected by the increase in penalties made by this rule.

This final rule complies with all applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988 “Civil Justice Reform,” to minimize litigation, eliminate ambiguity, and reduce burden. In addition, the NTSB has evaluated this rule under E.O. 12630, “Governmental Actions and Interference with Constitutionally Protected Property Rights”; and E.O. 13045, “Protection of Children from Environmental Health Risks and Safety Risks.”

The NTSB does not anticipate this rule will have a substantial direct effect on state government or will preempt state law. Accordingly, this rule does not have implications for federalism under E.O. 13132, *Federalism*.

The NTSB also evaluated this rule under E.O. 13175, *Consultation and Coordination with Indian Tribal Governments*. The agency has concluded that this final rule will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

The Paperwork Reduction Act of 1995 is inapplicable because the final rule imposes no new information reporting or recordkeeping necessitating clearance by OMB.

The NTSB has concluded that this final rule neither violates nor requires further consideration under the aforementioned Executive Orders and acts.

#### List of Subjects in 49 CFR Part 831

Aircraft accidents, Aircraft incidents, Aviation safety, Hazardous materials transportation, Highway safety, Investigations, Marine safety, Pipeline safety, Railroad safety.

Accordingly, for the reasons stated in the preamble, the NTSB amends 49 CFR part 831, as follows:

#### PART 831—INVESTIGATION PROCEDURES

■ 1. The authority citation for part 831 continues to read as follows:

**Authority:** 49 U.S.C. 1113(f).

Section 831.15 also issued under Pub. L. 101–410, 104 Stat. 890, amended by Pub. L. 114–74, sec. 701, 129 Stat. 584 (28 U.S.C. 2461 note).

**§ 831.15 [Amended]**

■ 2. Amend § 831.15 by removing the dollar amount “\$1,993” and add in its place “\$2,058”.

**William T. McMurry, Jr.,**

*General Counsel.*

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**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 648**

[Docket No. 230810–0190; RTID 0648–BL95]

**Temporary Rule To Extend Gulf of Maine Haddock Emergency Action for the Northeast Multispecies Fishery Management Plan**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Temporary rule; emergency action.

**SUMMARY:** This temporary rule implements an extension of the Gulf of Maine haddock emergency action for the Northeast multispecies fishery through the remainder of the 2023 fishing year. The emergency action extension is necessary to minimize the potential economic consequences associated with a substantial reduction in the Gulf of Maine haddock annual catch limit compared to recent years for a stock that remains at a very high level of biomass, while still preventing overfishing.

**DATES:** Effective January 9, 2024, through April 30, 2024.

**FOR FURTHER INFORMATION CONTACT:** Claire Fitz-Gerald, Fishery Policy Analyst, (978) 281–9255.

**SUPPLEMENTARY INFORMATION:** At the New England Fishery Management Council’s request, NMFS took emergency action to increase the Gulf of Maine (GOM) haddock acceptable biological catch (ABC). NMFS increased the ABC to 100 percent of the fishing mortality associated with the maximum sustainable yield ( $F_{MSY}$ ) (2,515 metric tons (mt)) for fishing year 2023. The emergency measures were included in the final rule for Framework Adjustment 65 to the Northeast Multispecies Fishery Management Plan (FMP) (88 FR 56527; August 18, 2023).

The Council took final action on Framework 65 at its December 2022 meeting. Framework 65 set fishing year

2023 specifications for 16 groundfish stocks, including GOM haddock. The ABC for GOM haddock included in Framework 65 for fishing year 2023 was 1,936 mt. This ABC represented an 83-percent reduction from the fishing year 2022 ABC. The recommendation was based on the results of the 2022 management track assessment for the stock and a 75-percent  $F_{MSY}$ , which is consistent with the Council’s ABC control rule for stocks that are not in a rebuilding plan.

Following the December 2022 Council meeting, members of the fishing industry started reporting an unanticipated increase in interactions with GOM haddock and raising concerns that the fishery may either meet or exceed its allocation of GOM haddock mid-fishing year due to the low quota, which could result in the closure of the GOM broad stock area to the commercial groundfish fleet or forgoing other fishing opportunities in the GOM in an effort to avoid haddock, both of which would have severely negative impacts for the fishery.

At its April meeting, in response to fishing industry concerns, the Council voted to request that NMFS implement an emergency action to set the GOM haddock ABC for fishing year 2023 at 90 percent of  $F_{MSY}$ , or 2,281 mt, rather than the ABC that was recommended in Framework 65 (1,936 mt, based on 75-percent of  $F_{MSY}$ ). On May 2, 2023, the Council sent a letter requesting the emergency action. NMFS reviewed the request and determined that this situation met the criteria specified for emergency rulemaking (62 FR 44421; August 21, 1997). NMFS based this decision on the robust status of the stock, which is estimated to be at 270 percent of its biomass target, recent survey trends indicating that the stock may have experienced another episodic positive recruitment event in 2020, and the temporary nature of the emergency action and any potential extension. NMFS determined that the GOM haddock ABC could be set as high as 100 percent of  $F_{MSY}$  (2,515 mt) for fishing year 2023 to minimize economic harm to industry to the extent practicable, while still preventing overfishing. The emergency action implementing the increased fishing year 2023 GOM haddock ABC published on August 18, 2023.

The emergency measures will expire on February 14, 2024, under the Magnuson-Stevens Fishery Conservation and Management Act’s initial 180-day limit on the duration of an emergency action. The Magnuson-Stevens Act allows an extension of emergency actions for up to 186 days

provided that the public had an opportunity to comment on the emergency action and, for Council-recommended actions, the Council is actively preparing measures to address the emergency. The Council has developed measures to address on an ongoing basis the underlying conditions for the emergency action, and the public had an opportunity to comment on the emergency action as noted below.

At its December 2023 meeting, the Council took final action on Framework 66 to the groundfish FMP, which intends to set specifications for the 2024 fishing year. Recognizing the increased interactions with a robust GOM haddock stock and the steep reductions from the 2022 fishing year limits, the GOM haddock ABC included in Framework 66 is based on 90 percent of  $F_{MSY}$  (2,406 mt). The fishing year 2024 GOM haddock ABC under Framework 65 is 2,038 mt.

Extending the August 18, 2023, emergency action prevents the GOM haddock ABC from reverting to 75-percent of  $F_{MSY}$  (1,936 mt) when the emergency action expires. The underlying emergency conditions have not changed. Fishing vessel owners and operators have relied on the emergency action and have changed their fishing behavior in anticipation of the emergency action’s continuation through the end of the fishing year. Specifically, fishing vessel operators have avoided GOM haddock and focused on other available stocks in order to conserve GOM haddock allocation for the upcoming spring season. While shifts in GOM haddock interactions are difficult to predict, in both timing and magnitude, this is consistent with increases in fishing effort and GOM haddock catch in past springs. Allowing the emergency action to expire and the ABC to revert to the lower amount approved in Framework 65 mid-year could prevent the fishery from realizing the benefits of increased fishing opportunities for which this action was promulgated. Therefore, we are extending the emergency measures through the end of the 2023 fishing year (April 30, 2024), consistent with the Council’s emergency action request and our analysis for fishing year 2023. For the same reasons noted in the August 18, 2023, emergency rule, NMFS has determined that extending the emergency action to maintain the GOM haddock ABC associated with 100-percent of  $F_{MSY}$  meets the criteria for emergency action.

**Comments and Responses**

NMFS received two comments in response to the emergency action.